

Probation Services Task Force Meeting Minutes
Judicial Council Conference Center, San Francisco, California
May 2-3, 2002

Attendance:

Task Force Members Present: Hon. Patricia Bamattre-Manoukian, Hon. Irma J. Brown, Hon. Denny Bungarz, Hon. Trish Clarke, Mr. Alan Crogan, Mr. William Davidson, Hon. Steven E. Jahr, Mr. Phil Kader, Mr. Ralph Miller, Mr. Michael Roddy, Hon. John Tavaglione

Task Force Members Not Present: Hon. Ronn Dominici, Ms. Sheila Gonzalez, Mr. Michael Johnson, Mr. Bill Mahoney, Hon. Kevin McCarthy, Hon. Frank J. Ochoa, Mr. John P. Rhoads,

AOC Staff : Ms. Audrey Eyje, Ms. Allison Schurman, Ms. Alla Vorobets

CSAC Staff: Ms. Elizabeth Howard, Mr. Rubin Lopez

CPOC Staff: Ms. Norma Suzuki

Welcome and Introductions – Hon. Patricia Bamattre-Manoukian, Chair

- ❖ John Rhoads will not be attending today. We received notice that he is retiring. at the end of August, effectively Labor Day weekend. He will be consulting with the Annie E. Casey Foundation on detention reform issues. He'll stay on the committee until that time. We will look for a chief probation officer replacement for him that can hopefully overlap with him at one meeting so he can pass on his wisdom. Judicial Council nominates that. CPOC will provide suggestions. They have a statewide meeting in late May. Audrey will talk to Alan to get suggestions.
- ❖ The line officer vacancy is an appointment by CPPCA. They had appointed Mike Burns and he left to go to the INS in Arizona. Cal Remington, president of CPPCA, has identified the appropriate person and I believe is working with that persons chief probation officer to make sure that person can attend meetings. I don't know his name or what county he is from at this time. I do know that SCOPO wants to appoint a SCOPO representative to the task force. They have a representative that they would like to join this group. This person is on the board of SCOPO may start attending as an observer. SCOPO may work something out with CPPCA so that this person is fills the line officer vacancy.

- ❖ Overview of today's meeting and the upcoming meetings in June, September, November, February, and next June was given to discuss what needs to be done and how quickly it can be accomplished. I think the longer we go on the more likely we are starting to lose members so it is important that we move as quickly as possible. We have come to a great point with the report but we really need to focus on the most important issues that are before us. Today we will get committee reports and updates and a projection in terms of what we will be accomplishing in our final report on these issues. We are not going to be able to do everything so we need to focus on what we have accomplished so far and what more we hope to accomplish. In June we will get that all finalized. The goal is to have developed our further recommendations by the end of our September meeting, so that we can do outreach and begin to get comments on whatever proposals we are making in Phase II. Which would go to all aspects of the prior recommendations. We will hear the committee reports, what we have done, what we are doing, what we can do, and recommendations for what can be accomplished by the September meeting. We will have a working lunch and then work on responding to the comments.
- ❖ The review of the comments will end with the governance comments. We will go right into a discussion of governance model. June will be devoted to completion of committee reports and anticipated completion of tasks by the September meeting and will primarily focus on governance.
- ❖ Hopefully we can finish up by September because it will take October, November, December and January to go out to the various stakeholder groups and get the suggestions on the table again and get feedback. February we can get the feedback, digest that, finalize the report, and start writing. If we start writing in February we will have time to work on the report and finish it by June. I see September as our deadline to get it together. We have today tomorrow and June 7.

Committee reports

- ❖ Ethics:
 - Audrey has met with Marc Jacobson, an attorney at our OGC who is the statewide expert on judicial ethics, and talked with him a little bit about the issues that we have framed regarding the various probation models and the ethical issues that might arise from those. He unfortunately cannot attend this meeting. There is a three year cycle for judicial training at which ends in June so he and Judge McCarthy have been doing various trainings for judges over the last couple months and have not been able to focus on this issue. They will both be attending the June 7 meeting and presenting back to us on the ethics issues as we framed them. If there are any additional areas that you have thought of since our last meeting, that you think I

- should bring to his attention, now would be the time to do that or you can email or call in the next two weeks. He and I will be meeting shortly to start drafting the questions, he will draft some sort of opinion on this for us, and then will present on that in June. So we will have written questions, a written answer and presentation in June.
- Hopefully it will be something that can simply be folded into the report as the ethical questions that we raised in Phase I/beginning of Phase II and then the answers to those questions. I would imagine that some of the questions do not have one particular answer. It will depend on the governance model and the structure but that should hopefully be laid out in that document.
 - Could care be taken, and this is something that had to be worked with the attorney on, in kind of an umbrella question, essentially to cover any model. I think it would be more useful to have “here’s where the line is .. when you cross over this line there is an ethics violation. Then when the model doesn’t fit, you know you run into certain problems, rather than depend on a model’s specifics as to whether there is a conflict. The reason for this conflict would be more helpful.
 - The committee works with Audrey to put together the ethical questions. Most of them are laid out in the minutes on page 36. If anyone has anything to add, please contact me. We will look at these and help frame some sort of umbrella questions as well as more specific model related questions.
 - So in terms of ethics committee, the ethics committee will have the questions and proposed answers in a format that can be included in our final report. Then in June after the presentation we will decide what more we would like to do in terms of ethics. Whether or not we are at the point where we have the advisory opinions, we have studied the ethical concerns raised, and do we need to do anything more after June 7 or are we where we want to be on ethics for the September meeting. After that meeting we can go back and draft further comments for the September meeting if we think that is necessary. Marc is available to help us frame the ethical issues as needed.
- ❖ Liability – Alan.
- The liability committee has had several conversations by phone and is not entirely sure what to do other than present examples of the type of liability the court might experience based on the state model. The concern of the judges was “what are we taking on as far as liability for institutions.” I pulled out five example cases that focus on institutional liability. The five cases are examples of the exact issues that will bring grave concerns with the board of supervisors and CAOs.
 - Case 1: suit against the chair of the board of supervisors. Overcrowding violated constitutional rights. Cruel and unusual punishment. At the last hearing the judge wanted counsel to explain why he should not have the

current chair of the board of supervisors brought to court and held in contempt and potentially confined.

- These cases underscore the ethical concerns that have been raised. From the judicial perspective if you hear these kinds of cases and employ or supervise the probation department. Can you hear those kinds of cases? If you can, and then you are looking to the funding source, which is the county, and you are thinking about bringing in the board of supervisors and holding the chair in contempt for inadequate funding. Aren't there some conflicts that jump out? Aren't there some ethical problems there? Your employee, the probation chief or officer testifies that we don't have the money and so you bring in the chair of the board of supervisors, well why shouldn't this person be charged with contempt. This is what the judges were saying at the presiding judges outreach meeting. We have some real problems when hearing lawsuits regarding any of our facilities. When we are the employers of the probation officers and we are not the funding source, we have serious ethical concerns and issues of conflict, so tell us how these are to be handled. That's a question for the ethics committee. We should get copies of all those cases to inform our liability discussion.
 - If you go throughout the state and ask each county to give the last two or three cases and then send them to me (Crogan) and I'll pull them together and can send to the committee.
 - Case 2: sues the county for negligence and sexual battery. Female showering notices a hole to the men's facility. New juvenile hall, no possibility for this to happen again
 - Case 3: juvenile entered an off limit storage area, sniffed degreaser solvent and died.
 - Case 4: stress as a result of sexual harassment
 - Case 5: juvenile hall staff mistakenly brought down a suspect fitting the description of an escapee.
- These are all real problems and ones that counties are looking at right now. The one disconnect is that if in fact we can identify that it is the person in charge of that institution that is causing these law suits to come down upon us, the board of supervisors has no ability to address that problem because it doesn't appoint the chief probation officer.
- That was the position stated. County has the liability but no appointment power in most counties. The board of supervisors has the liability but no means to address a solution. Judges are saying that if we appoint the chief probation officer and these lawsuits come to us and we supervise the probation department we can't hear these cases anymore. We have a conflict. So, if the judges supervise the probation department including the institutions, which the judges told us last time around that they didn't want and which the AOC told us they didn't want either, then the judges are

- saying we can't hear any of the employment issues that come up. We can't hear any of these cases if we are the employers of the probation department.
- In the courts is one aspect of it and in the institutions is the other. The probation officers are saying that in order to be effective, we need to keep them together. We need the courts and the institutions together. We have to have one chief probation officer because services are provided on a continuum. So you can't give us two bosses although we sort of have two bosses now already. But you can't really give us two bosses because we want this all together. So we have a tension here. This is the tension we are trying to resolve.
 - In the trial court funding arena, what they have done with the court employees is pass legislation and any employee disputes are resolved by a hearing officer, a member of the court of appeal, who sits and hears these disputes.
 - Basically, the Trial Court Funding law was passed in part because the employee dilemma was resolved by making the employees employees of the local court instead of state employees one the one hand which had its own complex problems, or leaving them as county employees which created the odd liability circumstances described earlier. One thing that was interesting in the array of cases presented is that there is a distinction that you drew between liability arising from conduct and liability arising from facilities shortfalls which itself can be a hybrid between conduct and facilities. The governance model to be presented tomorrow will address the dilemma that you put forward. I tried to find something in the toolbox developed for Trial Court Funding that might find a solution even if inappropriate because the way you laid it out is correct, there is a dilemma and there has to be a solution found to achieve both a unified probation office, which everyone agrees is the vital way to deliver services, and at the same time resolve the accountability and liability issues. I think there is a solution as long as we can differentiate between liability flowing from acts of employees and the liability that flows from deficiencies in the structure of the facility.
 - Refresh my recollection; Arizona was faced with this situation how did they deal with it.
 - They said that the people that sued would be processed at the county level first and then if that is unsuccessful or if it is a joint filing with the county and the state.
 - Arizona's probation department is under the judicial system. Who hears the case?
 - Ultimately the court hears the case. There are mechanisms for the court to hear these types of cases. It is not usually the court in that jurisdiction that is being sued. The ethical problems still exist.

- There is a wonderful template for resolution of this kind of problem in the Trial Court Funding model. Now all the employees are court employees. The county is out of the picture if there is a lawsuit associated with the acts, errors, or omissions of an employee. Lawsuit is filed in the superior court in the jurisdiction where the event occurred. Judicial Council would appoint a retired judge on assignment to come into that court and adjudicate that dispute. The county would be out of the picture as long as the liability producing act or omission was attributable to conduct as opposed to a slippery floor or a broken sidewalk because we inhabit county facilities but operate on an entirely independent basis from counties. So we do have right now in place, although it is not perfect and is also transitional and temporary, a two level liability structure in trial court operations in every one of the 58 counties. If you have an employee of the court that misbehaves in a way that is actionable, so that a third party suit by a member of the general public can be brought, it goes against the court and the state is responsible through the AOC which has developed this structure for hiring counsel from an approved counsel list. There is litigation committee on the Judicial Council that over sees the suit. It is handled entirely in that way. If the county gets sued in the alleged event that is only the result of employee actions, the state undertakes to defend and indemnify the county which was wrongly sued and presumably get them off in short order. At the same time, the same third party suffering a slip and fall due to facility will sue the court and the county and the county is liable. We really do have those two things going on right now in every one of the 58 trial court operations. It's not perfect but it is doable. The county is relieved of liability that it used to have for the court employee.
- Is it working that way or do you find that there actually suing against both.
- They routinely sue both parties due to absence of understanding. There is a structure for making requests to defend and indemnify one against the other. The judicial branch to the county if it's the brick that is missing in the sidewalk or the county to the Judicial Council through the AOC's general counsel in the instance in which the charging allegation reveals that the liability producing act if one exists at all is strictly on the count of the action of a trial court employee. They are always going to sue both ... they just will. And frequently what will happen is that you will get one out on a motion for sommer judgment or an agreement or perhaps even a demur if the charging allegations are so clear and the law is brought forward so they can actually kick it out on plea motion. The key is who undertakes to defend and indemnify because that is the pocket that bears the expense and ultimately pays whatever judgment or settlement. The structure works. It's not one that we have had for long but a very nicely prepared litigation structure is in place now, whereas once upon a time it was county counsel throughout the state who were overseeing litigation associated with

lawsuits against then county employees working for the courts. All that is being gathered up and litigation is being managed at the state level through that agency by the use of AOC hired legal counsel at the local level. We are pulling those away frankly from county counsel because we find that an organized approach to litigation management statewide for matters having to do with trial court employees is a more efficient and effective way to handle that. That local business group is ultimately the state through the council's budget is on the hook anyhow.

- Who manages that litigation?
- OGC Michael Bergeisen, he has a unit that has been established and in fact Alice Vilardi, who is now Alameda county superior court judge was heading that up. Sue Hansen took her place. Periodically they have meetings and litigation updates, very similar as what you would have in an insurance defense practice when you are regularly reporting to the claims manager of an insurance company or self-insured arrangement. While we were developing the structures as we went along it is a viable solution to the problem of potential multiagency liability associated with court operations and it breaks down very much along the lines of facilities responsibility is at present the county's responsibility. The acts, errors and omissions for which conduct is no longer the county's liability. It is strictly exposure via the state through the state budgeting process of the judicial branch.
- Would it be helpful to look at what was done in Trial Court Funding and also get some information on what kind of litigation has been on going. What kinds of lawsuits there have been?
- Most of the lawsuits were personnel lawsuits (wrongful termination, civil rights theories on employee actions)
- In terms of the process, securing the retired judge. How is that effectuated?
- I can't tell you that there is a specific procedure that is being delineated. Essentially the PJ contacts the assignments division of the Judicial Council (now the Trial Court Judicial Services). There is an assignments unit that is responsible for addressing requests from trial court PJs for the assignment of a visiting judge for any number of reasons (illness, vacancy, can't do the work, and then conflicts that are global). The Assignments unit essentially identifies a retired judge from the cadre of retired judges that have maintained their educational requirements as is now part of the mix. The Chief Justice makes a direct assignment which is a constitutional or statutory mechanism to that court and that judge hears the case. I think when you have personnel related disputes, the court of appeal comes in. In third party liability cases, you simply fall back on the presiding judge getting an outside judge to come in. Change of venue can also come into play.

- As we approach this issue of liability, exactly what has been said is true in terms of court and employee issues. In terms of facilities issues, counties are involved in the oversight management and maintenance of facilities. We should make clear the issue of overcrowding in the juvenile facility. That is not a county facility management issue. We don't determine the needs in that facility, that is up to the chief probation officer. If they are not doing a good job, and are not communicating with the county then that is the responsibility of the chief probation officer and ultimately the judges.
- This is a gray area. No model we can devise that can resolve every scenario
- chief probation officer might be expressing the need for expanded or improved facility but yet if there is no trust in the capabilities of that individual then it would be common for the board to not hand over the funds.
- Collaboration to insure the selection of someone who works well with the court and the board of supervisors is critical. If you don't have cooperation and collaboration, these are the very issues that we have been seeing throughout our work.
- On the liability issue, would it be helpful at our next meeting to look at this model and find out the implementation mechanism. Or hear someone speak that is working on this model from the AOC? And the kinds of lawsuits? How it is working?
- The lawsuits come in a variety of manners. It is not just the institutional issues. Car accidents, for example.
- If you want me to solicit more examples of liability from the state association, I am happy to do so. Why don't we take a look at what has already been designed? And see what the recommendations are instead of starting from scratch.
- You've given a spectrum of the types of lawsuits, it's not just the slip in the shower or the overcrowding.
- Focus on the many kinds of lawsuits and then look at the Trial Court Funding model. One aspect of the Trial Court Funding model that affects each county is right now you have the county counsel representing each county when the probation department is sued. So you have the local county counsel with whom you may have developed a relationship with and with whom you may have a lot of confidence. In the Trial Court Funding model your local county counsel is no longer involved you have representative by the state by a very sophisticated dedicated staff who have expertise. One of the recommendations was to have probation administered at the local level. Addressing the liability representation just to focus on that you would no longer be represented by your local county counsel you would have state representation who would arguably have a broad overview

of the types of cases, the settlements, the value, etc. But that is a real different aspect from what is going on now.

- For clarification of the history, it wasn't an overnight situation where you developed your own consult. After Trial Court Funding, there were provisions that first allowed you to pay for liability incurred and where there was findings of liability on the courts part out of the trial court trust fund. That was the initial step. Secondly, it was that you would be involved in the litigation which the court and county were named. And later, when the employee issue came about and other developments there was a transition where you were actually handling the litigation. So there were incremental steps to get there. If you are transferring the whole system you have to look at incremental steps to get there. And recognition of how you are getting there and how you best get there. The information that has been pointed out was very relative to the types of issues that the courts will be confronted with if in fact they assume responsibility for probation. Its like every employer, every entity that is responsible for an agency, counties in this case, face every day in every one of their departments. It's that type of thing and it does raise certain ethical questions that we don't have to face because we do administer, we do govern, and we are held responsible for activities of county departments. It does provide certain dilemmas for the courts. Do we really want this? We are finding out that those are questions that we still have to explore.
- For the June meeting. Examine the procedure that they have adopted in the Trial Court Funding. I'm not sure we need to do anymore on lawsuits. They are what they are and can go from one end of the spectrum to the other. We need to focus now on how can we adapt the Trial Court Funding model perhaps the steps that they went through, to fit in to work for us.
- That will depend on the governance model that we will discuss this afternoon and tomorrow.
- Audrey talked to OGC about Trial Court Funding and how it is working with employee issues and they are aware that they might need to talk about this.
- The structure identified earlier was a structure developed internally with the Judicial Council and AOC level and was not statutory mandated and indeed at the beginning the county counsel continued to handle legal liability issues as distinguished from employee negotiations and other legal representation, which they still do in many counties. The legal liability issue was handled that way and then gradually the structure was developed at the administrative office. Then a policy was issued and constituted a prohibition against courts that were sued sending their suits to county counsel. It explained that the suit goes to the AOC, OGC. It's a clear unified structure. For those on the internal committee, we saw these suits most of which were brought in from law firms that were hired by county

counsel in various jurisdictions were not being well managed as I believe they were when we hired new counsel.

- Since we need to get the governance side first, add Judge Jahr to the liability committee.
- The real resource would be Sue Hansen.
- Audrey will invite Sue Hansen and Debbie Brown a future meeting. Hopefully Sue can make a presentation at a meeting and give one or two page handout. Have a written overview of the process.

❖ Review of Laws and Mandates:

- We have started the first step in the process. A few folks have sent me lists of mandates and Alla has started developing a chart.
- Chart categories:
- In the summer we will do an analysis of the chart when the law student arrives.
- We can sort it any way. May be well to consult with chief probation officer on this committee to develop structure to organize.
- Alan has given Audrey a chart of San Diego's budget for every single entity. Broken out by services.
- Sacramento county has a thick binder from 80's with a review of laws and mandates that is obviously outdated.
- Alla Vorobets will do Westlaw search
- Law clerk will work on this. It will be a few month process.
- This is what we have so far. If you have any ideas, please let us know
- If that is done, it will be a great service to probation. It's the type of things, as a lobbyist, that I would be happy to walk across the street and show them when they are talking about cuts to our programs.
- Review of Laws and Mandates will be done by September. This will be a quick agenda item at the June meeting updating the committee on the status of this project.
- The law clerk will hopefully attend the next meeting. She is in law school and her prior life was as a probation officer. She has a wealth of experience. She comes highly recommended from the DA and the court and everyone we have talked to.

❖ Fiscal Review Funding:

- As we discussed in the March meeting, the fiscal review will be accomplished by the development of a survey instrument that would go out to all the jurisdictions. I understood that the formulation of the instrument would depend in part on the completion of the review of laws and mandates, so that we can develop an instrument that breaks down meaningfully the different responsibilities, which cost money. With Trial

Court Funding process one of the big problems was the data collection. We had to resurvey repeatedly and overly burdened the counties. This time I expect some help from the finance department. My understanding that we need a breakout of the mandated responsibilities and arguably the other things for which the statutes confer a power even if it is not a mandate so that we can organize a meaningful survey instrument and not miss those because every one of those activities has a price tag and we felt that we had to use this as the organizing tool. Recognizing that the review of L&M is not going to be finished until September, we are going to need to have some short circuit means of identifying the major category headings while that process is still ongoing if we are going to be able to get out a survey instrument earlier than September. Maybe the survey instrument can follow the principle decision making of this group and produce the desired result of a fiscal picture of probation services throughout California and broken down on a county level before a final report goes out. I'm sure we prefer to get the instrument out before September.

- Finance department will be at our June meeting to talk about what will need to be done in order to draft an appropriate survey that will get at all the information we need while not being overly burdensome on the counties, and probation, and the courts. Because with Trial Court Funding, the survey was repeated and they would like to avoid that experience. Lesley Allen has been to many meetings and has a base knowledge of what we are looking for
- I would caution us in reaching a conclusion(s) without knowing the scope or the price tag. It is correct to look at the cost of mandated services being performed by probation but if you come up with a recommendation that makes a substantial transitional change to another entity you have got to tell them what the basis of their assumed liability will be for taking on those functions and (2) we have to look at that and realize what the design is for a strategy to come to that conclusion. What we had in Trial Court Funding as imperfect as that was, was at least three years of what we identified as court operating costs. 810 was a tool not developed for that purpose but used for the purpose of telling the state and the counties, courts what the price tag was for this transition for court operations. We started with that and we had a framework or universe. If we go with a proposal and say we need to do this because it is good policy but we don't know what it costs I think that is a strategic mistake. A very serious strategic mistake.
- If we can initiate this earlier, great, but we must make sure that when we ask a question of the individual counties and use a term of art, we can define it in the instrument so that they understand what we mean, rather than their adopting innocently their understanding of that meaning from their historical usage while the county next door has a different understanding, what we will get back is an aggregate number which

probably is incorrect and with subcategories that compare apples with oranges. People had a different understanding of the meaning of terms. By the performance of this legal analysis it seems that we can use that to define terms so that it our meaning is understood. Example field services means X. Maybe we can avoid the pitfalls of Trial Court Funding 810.

- It might be useful to get going on the review of L&M. The law clerk will start her work on May 28. Probably in June or July a lot of the work will be done. Group can communicate with Audrey to find out where we are with the review and work on the development of an instrument based on that information. We don't necessarily need to wait until Sept. meeting and then start. If we could start as soon as we are getting some information and have a rough draft of the survey instrument. We could look at the draft of the review. We could finalize and determine a turn around time.
- Lesley and Tina worked a lot on Trial Court Funding and are very cautious about what we do. They can help us determine the right time in the cycle and allow enough time for completion.
- Bringing this information together it is important to make sure we identify the fact that some counties meet the mandates at a much lesser level than other counties. Supervision in one county is done very differently between counties. May cost x county this much, but it may not raise the to the minimal level that is required.
- Survey results in an environment like this in uncharted territory is going to produce all kinds of information some of it may be invalid or misleading. It is important that we draw that instrument so it brings in the information that we sought, not something more not something less. It's going to be imperfect no matter how carefully it is prepared. It is going to require refinement no matter how thoughtfully the first time around.
- Did you have to chase down counties?
- Not really. We got back honest answers that were invalid because the question we asked meant one thing to one group and something different to another. It was a reflection of many cultures that had lived in isolation forever. Loosely affiliated hunsatic states. When trying to correlate information it was like drawing information from different countries. There is no reason to suspect that we will find anything different when looking at probation services. Each is driven by its own county functions.
- Extremely important how you frame the questions. You will get different interpretations. We have to ask the right questions. We can even get aggregate information that is incorrect. The first impression is that maybe the subcategories might not be right but at least we can add it together and it we can come up with x dollars per year for probation. That doesn't work. The true cost of operations might be in other areas.

- Group might decide to make a determination about what probation services are which as a piece would move to the state and some piece would remain with the county so we need to be able to define is sufficiently so we know what as a package we are going to be pulling out.
- We you get into pulling out the cost for me to run juvenile hall 7 days a week 24 hours per day costs \$14 million /year. We supervise 23,000 adults at \$7 million dollars per year. The caseload size is ?? What is your budget \$7million but don't know my caseload size it doesn't not give you a cost assessment of what services are actually being required. I'm required to provide supervision. Out of 23,000, 85% get audited on occasion based on a structure we set up, 15% get fixed case?
- This would be a starting point not an end point. It wouldn't be a picture of the perfect world aggregated; it will be a picture of the world, as it exists now. It would reveal the things we have said anecdotally. Anecdotes don't go anywhere with the legislature. They are not interested in reform based on a story. It looks good on the news but they aren't going to enact a statute.
- What we need to do is in June, get an update of where we are in terms of the review of laws and mandates and then as that work is being done, the subcommittee doing the fiscal review and now charged with developing a survey instrument would want to get together as soon as possible to begin the development of that instrument. That committee represents all interests looking at the survey document to try put together a valid survey instrument. We can then look at the instrument and refine it, raise questions and further discuss it at our September meeting with the hope that it will go out soon after that.
- One thing that occurred after Trial Court Funding passed and we were trying to get a handle on pursuing budget requests and changing the budget requests model, they held workshops for court executives to prepare them to answer the detailed surveys. I'm not sure if that is appropriate in this situation but if the concern is that there is literally the need for front end education for those who will be the recipients of the requests and providers of the information back to us, it's a thought that we might be able to do something.
- Are you suggesting regional meetings?
- Not necessarily. Perhaps using Karen Thorson's satellite education structure to provide that kind of preparatory learning experience to those who will be responsible for answering the surveys. The various individuals could each come to the courthouse where the technology is available at a given hour and participate. A local facilitator would be involved so people could call in questions. For those, that can't make it you videotape and they watch the tape at their convenience. This may diminish a lot of these

concerns. These concerns cannot be overstated so it might be a way to help that along.

❖ Education:

- The sub committee on education has not had a formal meeting. The past minutes regarding education were sent to Judge Brown so she has had an opportunity to review the work that has already been done on education. One issue is the need for education of the juveniles and who is basically responsible for education within the detention system as well as school based education programs and responsibility for the various education agencies and how to better foster collaboration between them. The other aspect of the piece is ensuring that probation officers are aware of the requirements and whom the responsibility falls on. This is particularly important in communities where you have large populations of parents who are less sophisticated about the education system and perhaps they can develop some guidelines or pamphlets of some kind that can be given to parents to educate them on what services are available and how to obtain them for their children. And making sure that probation officers are trained with regard to guidelines and timeliness of the services rendered. Everything seems to point to education being the focal point in terms of the kids and how soon they will be able to leave the system. The mental health issue is part of the education aspect. Children with special needs, how you can identify them, and the IEP process. I've been in juvenile for 2 years now and have never seen one come back in 15 days. There is a total lack of follow through in communication at least in our county system wide regarding whose responsibility is whose. There is also a mention about the possible need for this task force to author some legislation to perhaps pass or to see if there is additional need to pass legislation in terms of advocates for children. I think we can get that from review of laws and mandates for probation as it details the current responsibilities of the probation department and what they should be as it relates to making sure that the educational needs of children are met and that within the detain facility they are teaching to the state standards. I get very frustrated in this area because there seems to be such a poor resource base for getting these kids in school. I think that we need to propose something in terms of their advocacy towards kids to be able to get the schools involved and make sure the mandates are honored. Make sure that probation knows what they are. I need some guidelines in terms of a model, if you are looking for a model that exists, or what you feel is missing or should exist or exactly how this piece should be incorporated into this work. How do we want to synthesize this information into the work, the need is clearly definable and articulable.
- How does the task force see the educational component in terms of the report? How much should be done?

- The following comments on education are based because of my efforts to contact line staff regarding employee issues. Line staff that have read this report said that recommendations 12, 13, 14, and 15, are the worst part of the report. They feel this way because it puts an extra burden on probation, and their comment is, generally, this isn't our responsibility. I know as we put this all together we agonized over how to word this, and how hard to push it. but at the same time line staff agree that this is one of the biggest failings in the areas that probation has some influence on. I don't want to sound schizoid but I think everyone agrees that this is a major discussion point; we are going to get a backlash from staff that are going to be expected to do this. I will tell you that many of them including middle managers and other agents that I have talked to say this is absurd to ask them to do this. They are running caseloads they can't control and now we want them to advocate for education. They think that this is insane. So with all that said. I am very pleased with these recommendations. I think they address the issue but they remain general enough in how we suggested them, so that it doesn't come out so strong as to say that every department has to pursue a very strong emphasis on that. I think it was important for me to make sure that everyone understood that when I was talking to line staff folks, of the ones who read the report, this was the first issue.
- If I recall our discussion, we know it is not the probation department's responsibility, it's the DOE but they aren't doing it. So how do we get someone else to do it. I think that the majority of the people that I talked to understand that but they have a different bottom line perhaps than the theoretical bottom-line.
- In the world in which we live now there is no natural nexus, no easy nexus between all of those services that are available right now but haven't been tappable or tapped. So one of the approaches we can take is to suggest a structural change that allows these two worlds to have a much easier connectivity. You are right; the labor involved in trying to reinvent a wheel that the educational world already has in place to some degree is enormous.
- I have a problem on that. We (probation) are currently advocates on behalf of juveniles. I think that's what we were suggesting, that we advocate these services on the basis of providing those services to kids. The problem is too, I think that if the report is read in the context of today's world, we may not be suggesting today's world later on in our report we may be suggesting a world that looks a little bit different, which really does give the probation officer the opportunity to do more advocacy. I'm also not suggesting that we take on the responsibility that the schools have to provide but I am strongly suggesting that probation is the advocate for those kids. We need to make sure those services are being provided and that is part of our charge today. If we want to take responsibility for it or not or whether we can take responsibility for it.

- Probation could be the nexus because we are the connectivity or linchpin. There is that connection and we could be that connector. I don't disagree with what is being said. I just wanted people to understand that this is still a touchy item with people.
- I've spoken to our superintendent of schools in our county. And asked why they aren't taking care of this. Its funding. No matter what you say to the DOE, unless we figure out a way to get them the resources, they are not going to be there to do the job.
- It's the absence of pathways that prevents the collaboration. We have said collaboration is the key many times. The resources are there the key is to create the environment whereby collaboration becomes something that people learn to do instead of the natural reaction to stay away. Whether it be an integrated automation system or the melding of local resources. One structure that I know that has been investigated that we have seen locally, a private religious based non-profit that came forward with some of the restorative justice principles that we have seen implemented in different locales and they actually assisted probation in gaining access to job resource training, education and so forth. Its hardly perfect but its an ongoing building out process. If there were some way that this task force can make recommendations for a structural change that could create pathways that don't exist and just change the mindsets to get those educational resources more readily available.
- An example of cooperative effort is the truancy board. The probation department, DA, and the board of supervisors are working to do the truancy thing and enforce it against the parents. Obviously that is working really well. The educational establishment in our county is the force behind that or it wouldn't work. In fact, members of the bar served pro bono in proceedings against these parents. It's an instance where somebody was able to break down the barriers which are really imaginary barriers but none the less powerful. If there was some structure that we could recommend to facilitate that.
- To provide direction, we need to review the existing statutes, laws and rules which relate to education and the second area is basically who is going to advocate for the children. It's not the role of probation now in the written word, in some cases it is but who should advocate on behalf of the juveniles on educational issues and who should advocate for the adults. Are there any laws and rules that apply to that and if there aren't, what recommendation are we going to make and what proposed legislation do we need as it relates to the responsibility for advocating for these groups. Then what services exist now, locally and statewide. Maybe we can't do all this work. Maybe it's just identifying what services exists, how do you access those services, how do you build collaborative relationships with those that need to be involved in this discussion, a lot of the comments on the report talk about

the DOE. How do you work collaboratively with the DOE so that you can provide the services that are available to the adults and children who need the education so that they become productive members of society? That's the goal. So that they will successfully complete probation and become productive members of society. So those are the issues. And there is so much, that we may get to a point where you suggest to us certain areas where we can do more or certain areas where we just have to make the recommendation.

- One of the comments was a discussion with Judge Ambler where he discussed bringing something like CASA to the probation side. Is that something that went beyond this discussion? Is that something that the task force thought about or might want to suggest a different component for educational advocacy? It is being expressed that we don't actually want to say that probation should be the one to do it, the public defender doesn't want to do it. Probation is not doing it in my opinion. So are we prepared to say that probation should do this, or are we comfortable saying that CASA type services should be extended over to probation?
- Judge Addler was referring to a bill that would have expanded CASA's role into advocating for education. And CASA strongly opposed it because their role is in dependency and even in this limited role they don't have enough staff. Some CASA's have expanded to delinquency but on a very limited basis in exceptional cases usually kids that were in the dependency system and went to the delinquency system. They felt expanding their duty into education would overwhelm casa. The bill turned into standard 24 which I think is referenced in the materials as well, which talks about the juvenile courts role in ensuring children's educational rights. It does leave out the advocate and who's position it actually is to do that and I think that is partially why we went back to focusing on probation.
- I don't want to be misunderstood; I would not in any way suggest softening the recommendations. I would be negligent to not mention the concerns that were expressed to me by the line staff and others I have spoken with. I think the task force's original goal was a sound one.
- Education subcommittee could recommend ongoing training for probation officers. How do you do that, how do you provide that, do you want a statewide? How do you implement it? You say that all probation officers need to be trained with respect to educational opportunities for minors and adults in ongoing services. How do you do that? Can you do that on a statewide basis? You could include or consider a recommendation. You sort of have an open charge. Should every probation department have an educational specialist? Should there be funding for an educational specialist in every department. Or should a probation officer be designated this responsibility or should all probation officers have this training. If you go back further, the courts have the ultimate responsibility is the way I read the

law for educating and supervising the juvenile facilities under the rules and mandates that exist now. The courts have a great responsibility in the educational component. That's what Judge Ambler is so involved in. Judge Edwards as well. You can look at all of those issues and help us make recommendations as a task force that would address all of those many concerns.

- As the devil's advocate: one of the best funded parts of state government is Education. They have prop 98 and perhaps we ought to make a strong recommendation. It seems to me that the DOE is not fulfilling their requirements that they are funded to do. These children especially are still under their jurisdiction whether they are in the facilities on probation or what they are. Shouldn't this task force be making strong statements to the DOE about the fact that they ought to be fulfilling the responsibilities that they are funded to do. Rather than try to take all of the responsibilities that are funded to do and place them on probation officers.
- Maybe they can provide an educational specialist to every probation department at their expense. They are getting funding for it, probation is not.
- Those are the kinds of things that we can explore in terms of providing the resources to the juvenile and adult system in the educational area. That's what a lot of the comments said. It's the DOE's responsibility. They are funded and they should be doing this. Why should probation be out there trying to figure out how to get education services? That's the DOE function
- That was our dilemma when we discussed this issue. How does this task force get the DOE to do it?
- Pressure on through the system to do it. They are getting all of the funding
- We can recommend the creation of structures or pathways that essentially expedite the form of those resources where you need them to meet your charge. It's not a question of new resources developing new duplicative resources it's a question of trying to craft proposed legislative structures or rules that would bring these resources to probation that are now not voluntarily coming our way.
- The states response is that they distribute money to the district and then the district budgets the money according to where they see the greatest need. Recently a large school district in LA county lost funding and now they are cutting back truancy officers, which is sort of what we talked about. Keeping kids in school. They are losing half of them as of June 1 and there is not enough resources. There is a fight about how the money should be distributed and those kids on probation are at the low end of the totem pole.
- I'm not suggesting that. Trish is right the education world is in better funding situation. I agree also that these cuts occur. Maybe the structures and pathways that we attempt to develop are both at the state level as well

as at the local level. All I'm doing is suggested that there are resources there. They are very difficult to tap but we know they are there but what degree they are there may vary from year to year and location to location.

- Maybe our recommendation is not to mandate against the schools, but make it a priority to serve kids on probation. So they don't get to make the choice not to serve them.
- Not to beat a dead horse, but I still think that you and I agree that the education department ought to provide the service, but the probation officer because typically they do not want to deal with our children. The education system want to push them out of the system and put them somewhere else and blind themselves to the fact that a majority of the kids in our system have got these special education needs and handicaps. I think the probation officers need to be trained to understand what's out there and understand what the services are so that we can advocate strongly on behalf of these kids. I'm not suggesting that the probation officer provide the service but the probation officer has to be at the table demanding that the services be provided to the child because typically they will let the kids go out of the system and serve the kids that they can serve because they are cooperating. In fact, it will get worse as the funding for education is based on the degree of conformity.
- When I said duplicity I didn't mean to suggest, in fact I agree absolutely it seems to me when you have kids in your system the direction should come from the probation officer but the resource has to be there to implement the direction. That's the idea. It's not a hot potato game that probation takes responsibility for.
- There are 43 school districts in San Diego county. Every one of those boards has a different attitude. Get an attitude on one board and you can't get anything accomplished. We have been successful in getting as many things accomplished as we have because of an enlightened board. I've seen other chiefs talk about their boards and there is no cooperation.
- The importance of communication and collaboration is so important. This is the first time a committee has been put together bringing together probation, courts, and board of supervisors, at least to my knowledge. We have a lot of other groups wanting to join us such as public defenders and district attorneys. I'm sure the DOE would like to join in on this dialog. I think it is very important that we make recs to continue the dialog and the training.

❖ Welcome was extended to new member Supervisor John Tavaglione of Riverside county.

❖ Employee issues:

- Let me preface this by saying that this subcommittee has not met although we have discussed shared issues related to employee issues. I have contacted people in different counties. This is meant to be a brief overview of what I came up with and what some of the folks said to me in relation to this. In reviewing our charge and understanding the importance of some of the stuff that we wanted to talk to, the employee issues area is going to remain a very difficult task. Many of the issues that line staff want to talk to me about are meet and confer issues. So much of staff says we want to be armed and we want safety retirement but so many of these issues are going to be negotiated issues. What I have tried to do is glean some of that stuff into an overview of the stuff that people universally agreed were important issues. With all that said, part of the discussion was based on who gets to be a probation officer so there is a fairly significant group of employees that say “how come in some counties you have to have a BA and in some you don’t” “how come in some counties you are urged to go through the juvenile institutions and some counties don’t. “some counties hire outside and some counties don’t. those issues came up very regularly, and certainly SCOPO was very strong in saying that they felt some kind of statewide standards like a BA was important. The argument was if we want to be treated as a professional group/organization there was a pretty strong feeling that an experts degree in a related area or unrelated in my opinion would be helpful. Then the issues went in this order: Safety issues, people in institutions some counties and you can almost figure it out according to how large and how much money the county has. We have some institutions where people have radios and panic buttons, access to back up and some counties people feel they are on their own in terms of safety. There is a fair amount of counties suffering from a number of people being out due to injury because now we qualify for the injured on the job thing with full pay. So, institution issues related to communication capabilities while in the institutions and better training and the typical explanations. The other part of the safety issue is the field people. Many of the field officers that I talked to said that if they are in the field and doing a search without the police and they don’t have a police radio and something goes down, their department says they should use their cell phone and call 911. A lot of the field officers thought that was an issue. So some kind of statement related to safety and being properly trained. A lot of the folks talked about being armed. Those that aren’t armed want to know why they aren’t armed. Often our folks are teamed with law enforcement but not trained the same way. In Fresno probation is sometimes more trained than the law enforcement.
- So, issues of safety: institution related concerns, safety in institutions, and safety in the field with equipment. Safety issues were clearly the number one issues, then the other issues were related to safety retirement (why don’t we all have safety retirement 3% at 55) how come some have 2.5% at

55. Safety retirement also includes things that happen while you are on duty. The final issue is the retention of staff issue. Some counties thought it was a problem others don't. San Diego County for instance just lost 108 experienced people. It's a double-edged sword. We want the retirement program so we can recruit and retain people and have more experienced people in the department but now we are losing experienced folks because we have retirement.
- San Diego anticipated the loss and created a mentor program to minimize the transitional problems.
 - It is a problem that veteran staff is not there when the unusual problems come up.
 - What happens is inexperienced or mildly experienced people come in and there is concern about how those people get promoted, etc.
 - That was the thrust of my conversations with probation. Not much different than we would expect folks to say, and that is people want to feel safe in their work environment. I think we can make a statement that indicates such. We kind of have already. Some support with pay and education and retirement issues are things that we need to explore.
 - With the understanding that some of this is meet and confer. There are things that we came up with in the report that we can expand on I think that will be more supportive of staff issues. Ralph may be much more in touch with the southern California connection and he might have a lot more stuff to add so this report is incomplete without his input.
 - For June, have a subcommittee meeting and then make a further report to the committee.
 - I'd like to provide you something in writing with the standout issues that remain that the employee issues committee feels can be addressed without trying to bring out some of these meet and confer issues.
 - By "bring out" do you mean not address the meet and confer issues.
 - No. I think we can make general statements about staff being trained to do the job they are supposed to do.
 - Make sure the training is relevant to what folks do now. There is not one bit of training on BARJ but a lot of counties are doing that. Maybe we can approach some of these issues as standards and training.
 - There were a couple surveys done by probation business managers and one was on the issue of arming. Survey was done and found that about 20 counties have safety retirement. With the departure of the veterans that you lose when you bring in safety retirement, you lose the history and a lot of experience but the way it rejuvenates the department rejuvenates the county is phenomenal. All the new people coming in with zero days and will work 25 years to pay into retirement. In San Diego, if over thirty years in San Diego you don't pay into retirement, most of those went away. Now they

- are getting new people in to pay and the actuarial came out with five or so years to pay back all of the money. The retirement board put up all of the money and as other counties see that option.
- \$3.4 billion in the retirement and used up \$216 million.
 - An issue we should address to some extent is what required training of probation officers is there.
 - During your first year of work, you have 176 hours of very structured training. 80 hours of 832 training that you have to do (arming). Annually there after there is a 40 hour requirement for probation officers but it can be defined according to your particular needs or the needs of the department. For institutional services people it is 136 initial core training (well defined) and then 24 hours per year thereafter which is again defined roughly. You are reimbursed by the state, however depending on what you do may not cover the whole cost.
 - Who provides the training?
 - Individual providers. The board of corrections standards and training branch actually certifies the various types of training so a provider or vendor can ask to provide this type of training, the board of corrections either approves it or rejects the request based on whether it is an appropriate training and has the requisite elements within the training. The trainer has the necessary background to do the training. Once it is certified for how many hours and what staff it is appropriate for, you can use that and it counts toward the hours and the fulfillment of the requirement. If you don't do it, the only drawback is that you don't get state funding for your training.
 - Who mandates the training?
 - The requirements are in 8000 of the penal code, which talks to the requirements for training and how we should do it. We will have this in the review of laws and mandates.
 - So the training is provided in a number of different ways and some state funding is conditioned on certain training.
 - If you don't do the training, there is no funding. You get an increment based on a state funding mechanism set aside especially for this purpose. It lays out what the training will be. The core is specific but the annual is not.
 - So not all probation officers receive the same training.
 - Core training yes, annual training no.
 - They are supposed to be receiving the same training but may not receive exactly the same training as there are different providers.
 - The core training is very delineated as to the test questions, how much time is spent of subject manner, etc.
 - The core training includes institutional, adult and juvenile. Three different tracks.

- Beyond that is there any degree required? No not mandated by the state but some counties (majority) have a BA requirement.
- There is also manager and supervisor core training.
- I went through the supervisor training and talked with others who went through the training. Some felt that the supervisor training was great and some felt it is not good.
- Is your committee going to be looking at the mandates that apply to training of probation officers and minimum qualifications, and making suggestions in terms of minimum qualifications and training, ongoing training, and education? And how it should be administered? At the local level or statewide or as an advisory committee that ensures that everybody receives certain training? If there is new legislation passed that mandates a new service to be provided is there going to be a training component to that/ which is basically done on a statewide basis. Do you contemplate that you will be looking at those issues?
- Not the first part but the second part. The folks I talked to felt that we should have minimum qualifications, minimum training, and ongoing training and education. Minimum training standards are pretty well established now and I would not think we would make a suggestion to modify that much, but I do think that the latter part as far as a real deep understanding of what the required trainings are I think we will get some of that from the review of laws and mandates and we may be able to just piggy back off of that. If you want to separate it out for this, I hadn't thought of that but we certainly could do this.
- In the board of corrections currently they went through a complete description of all the duties and responsibilities of the line staff. The last time they did this was about 20 years ago. The duties and responsibilities are substantially different today. Technology for example, some of the largest fights that I have had are about using technology. The more experienced staff had been dictating reports and now they are asked to type them. We had to do a time study to say that the dictation is faster than their typing.
- Do we need to include in our final report the board of corrections and its role in setting standards and inspecting the institutions and affecting any change in collaboration with the board of corrections.
- That might be driven by governance.
- Not necessarily. Recognition of the board of corrections' role now might be useful. Whatever model we come up with is going to rely on the board of corrections for their input if not their dictation of the standards for facilities and perhaps training. I don't think we want to take on the world again relative to reinventing that wheel. The board of corrections is one of the

- few state agencies that the county gets along with because they work with you. I caution against reinventing this wheel
- If you are required to submit monthly reports to the board of corrections and they come in to inspect the facilities, and there is a good relationship and it seems to be going well, and you are working collaboratively, we should include that aspect into the report because it completes the picture. A lot of the comments say that we sort of forgot this issue. It was our first effort, so there is going to be omissions and it occurs to me that we didn't include much on the board of corrections and we knew that. We didn't really get to the employee issues. The role of the board of corrections in terms of inspection, training, the level of training those probation officers receive. This report will be circulated nationally and I think it would be very helpful to include in there the levels of training mandated now by statute, by law, and by mandate, how that is being provided now, and what the relationship is with the board of corrections. I think that we will also address and assist a lot of the court officers who are envisioning inspecting all of the facilities and camps, while I understand the juvenile court judge already has that responsibility. I think to the extent that the board of corrections is already doing that and working with the counties it will be helpful to inform the readers about that process. When other states are reading our report, it would help to have information on what we are doing now, particularly if it is working well, to let the reader know that. I think that goes in employee issues. It fits under facilities too. The board of corrections plays a major role in facilities.
 - What we should be looking at come June are the issues that we already hit upon. Does the group want to see the employee issues subcommittee include this training relationship with the board of corrections?
 - One of the issues we talked about is elevating the level of probation and gaining recognition for the work that they do. I think it would help to inform the reader with respect to the amount of training that probation officers receive and the ongoing training and if there are any additional recommendations concerning additional or different kinds of training. How will this fit into this, what are the ongoing mandates that exist, and what the board of corrections is apparently doing very well.
 - For education subcommittee, should we not talk about the training of probation officers in our discussion?
 - My sense was to do it in both places and then when we start working on the report, decide where it best fits.
- ❖ In June we might make up a new committee. With all of the recommendations that we are going to be making, there needs to be away to continue the work to implement the recs to provide assistance to the various counties. There are lots of ways to do this and one way that we talked about early on but didn't

recommend because it was premature was a statewide probation advisory committee. So, I think we need to keep thinking about what are we going to do after the report. We need to include in the report ways to continue the work and to implement the many short-term rec and to provide assistance to the counties and to look at the education and training issues. What kind of advisory group would that be? Who will it operate under? Who funds and supports it? Is it an AOC advisory committee? Who is on the committee? A member of DOE, board of corrections, DA, chief probation officer, Line officers, judges, public defenders, finance person, board of supervisors, any of the different aspects of government. We can talk about this in June and hopefully get some direction because in September we would like to get this rec in place. If the recommendation of the committee is that on the liability or funding issues. Should there be support from the AOC or CSAC? We don't want to just leave the report dangling for each county to implement on its own.

- Any ideas in terms of structure and support staff, please let me know.

Review of Comments

- We circulated the report to 600 people and posted it on three web sites, the home page for CFCC, AOC court info, and the PSTF web site. And it still resides on PSTF. We received comments from 43 people or groups. Commentors included 2 judges, 18 probation including 10 chief probation officer's 6 DPOs and some individuals and SCOPO. From the counties, 16 comments, 5 from board of supervisors, 3 of those on behalf of their boards. 7 others, three public defenders, The Family and Juvenile law Advisory Committee, CSAC, Friends Committee on Legislation. In the spirit of collaboration, Amador County as a group, the Superior court, board of supervisors, and probation department, sent a report on behalf of the whole county.
- 43 comments is not a lot for that much circulation.
- It's not a lot but when you consider that a lot of the comments are on behalf of a group. Its 43 responses, but you have all of Amador represented, you have a segment of the Judicial Council Family and Juvenile Law Advisory Committee, and the staff of the SLO probation department. At first when I heard it was 43 comments, I thought that was not very many, but then when I looked at the groups that were commenting, it's a little bit more than that. It's still not what you would expect but there are a lot of people focusing on the report and reading it.
- Our chief probation officer said that she was not going to comment because her thoughts were represented through communication to a task force member. She felt since she was communicating with a member of the task force, she had input that way.

- I heard that from a number of judges, and similar to our rules and forms process, frequently when people agree, they do not comment.
- Bill Davidson is the CPOC representative on the status of the task force and makes presentations on the task force to the group. We encouraged the chiefs to make comments on the report.
- In terms of the court, we sent it to the trial court presiding judge, court executive officer, juvenile presiding judge and to a number of interested judges, criminal law advisory committee, juvenile law advisory committee, judicial officers and court staff was probably 250 people.
- We know that all the chief probation officer's are aware of and have reviewed the report or at least know about it, that's 58 counties. We know that CSAC is aware of the report and has commented. So we know there is awareness there.
- In terms of the court, every presiding judge, juvenile presiding judge and court executive officer know about it. So I think there is adequate awareness. Some of the people that did respond, just said "this is great", "good job", so I'm hoping that those who didn't respond felt the same way. Some of the comments were to a page and a line and a word, so that's how closely they read it. I think it was circulated as best we could.
- ❖ Discussion of the comments: (Discussion is incorporated into the comment chart.)
 - These comments will be reflected in our final report.
 - The final draft of the report will reveal the change and in an appendix, we will include the comment chart.
 - We can also include this as an attachment to the report and not an appendix.
 - If CPOC would come up with a suggested mission statement that could be adopted in each county or could be used as a guideline to facilitate the development of a mission statement it would be a tremendous assistance. Crossing over into all of the counties a lot of the goals and objectives are the same.
 - I don't know how fast we can come to agreement.
 - The group can probably work on it pretty heavily in July to be ready for the September meeting.
 - We will have a statewide mission statement for the September meeting.
 - Early intervention does that not refer to services provided to juveniles. Can be both. Adult examples are diversion, younger offenders earlier. Intervention is diversion.
 - My understanding is that early intervention happens before the crime. The kid is at risk because he doesn't attend school and you are intervening because of some grant program.

- Early intervention to the person and stop a life of crime.
- Are we going to publish a final interim report?
- The original intent was to publish an interim report half way through and then do a separate report to publish in June 2003. After a discussion this morning, we thought it would work better to add to this report and just publish a final report. It would be enhancing what is in this report and adding new areas such as governance instead of starting from scratch.
- I think this is a better plan since we would have to spend a lot of time revising and publishing this interim report that we could devote to finishing the final report. And, if you change the interim report you will have to go through the RUPRO process again, send it out for comment again and then address those comments. Then we can turn to our final report. If we don't have to go through this process, it will save us time. We can publish the comments and our responses so that people can see that we addressed them. Then we can move to the final report immediately.
- Is there anything that precludes us from not finalizing the report?
- I think it is not a problem as far as the Judicial Council is concerned. It was circulated widely enough that every one knows what we are working on. Unless there was further direction saying that they want to see a final interim report, this assessment seems correct.
- Audrey will check with Bill Vickrey to make sure this is okay with the council, perhaps Liz could check with Steve Szalay.
- It is a fiscal issue as well, we will save a lot of money by publishing the final report only.
- As long as we publish the response to the comments and supply the Judicial Council and CSAC with that, we can move on with our report.
- One thing to think about, once we have gone through this document is there any value in publishing the revised interim report. So that the person knows that we responded to their comments.
- This comment sheet with our responses will be published on the website. With an explanation that we will come out with a final report.
- We are planning to visit the stakeholders again with our recommendations regarding governance, and we can address the reasons why we did not publish a final interim report.
- The bottom line is do we feel that we have circulated it widely enough, do we feel that we got adequate comments. As we discussed before, it was widely distributed.
- After this process today we will revise the draft report. If we decide simply to publish the comment sheet, we will check with Bill Vickrey and Steve Szalay to make sure this process is okay.
- You are not suggesting that we publish a new revised piece.
- No we would publish the comment chart with our responses.

- Don't do any revision. Do them only internally and then post the comment chart.
- Audrey will make as many changes as possible. The document will change but only internally.
- That is less confusing.
- Post and circulate the comments. Make internal revisions.

Education Recommendation Comments

- Rec 12: Take the word rights and change it to services, does it make more sense.
- You are trying to make sure that they are provided services that they are entitled to.
- This is in the white board.
- Probation officers should be trained to ensure that educational services to which they are entitled are .
- One caveat is that Judge Ochoa was a strong advocate for this rec. we should seek his input before we make a decision on this.
- Part of this was started by standard 24 and we had the discussion on whether to say juvenile instead of probation officers in general. We decided to leave it looser.
- Suggested change is: Juvenile Probation officers should be trained to ensure that educational services to which children are entitled are investigated, reported, and monitored.
- Remove the juvenile due to the fact that some probationers have children that are entitled to educational services, some children that are under age 18 are treated as adult cases and are entitled to educational services.
- The spirit of the comment was to address the fact that probation needs to do make sure the services are provided to the children if it is found that they are not getting the services they are entitled to.
- Looking for a verb beyond investigated, reported, and monitored.
- We debated the need for a second recommendation to cover the educational needs of adults.
- No, the suggestion is: Probation officers should be trained to ensure that educational services to which children are entitled are investigated, reported, advocated and monitored.
- Discussion was tabled until tomorrow's meeting. Judge Ochoa will be with us tomorrow and can join the discussion. He was very much in the discussion during the last round.
- The question becomes do we leave the rec alone. Do we want to take 12 and 15 together and discuss educational services for both adults and children.

- We also want to discuss collapsing all education recommendations into one recommendation.
- We revised rec 12 to: Probation Officers should be trained to investigate, report, advocate, and monitor the educational services to which children are entitled.
- Audrey can discuss this with Judge Ochoa and then if he has concerns we can discuss them at the next meeting.

From the white board:

Probation Officers should be trained to ensure that educational services to which children are entitled are investigated, reported, advocated and monitored.

2. Probation Officers should be trained to investigate, report, advocate, and monitor the educational services to which children are entitled.

- Are we in agreement to change the rec to this suggestion?
- I agree that it is worded better.
- There is a discussion of whether “should” should be included.
- “Should” is in all of the other recommendations.
- Only one without a “should”. Recommendation 1 is a “must”.
- In reading through some of the comments related to education and it is suggested that we combine the education recommendations.
- We may want to analyze all of the comments and then combine them into one with subparts.
- Originally we had one recommendation and discussed the sub points in the discussion. We decided it is more powerful to make four separate recommendations.
- We can go back and do one recommendation with a discussion in the text.
- I think it is a stronger statement to include the four recommendations.
- Did receive some informal comments that there are four education recommendations but no other sector has that kind of attention.
- It might bring out the fact that we feel strongly about education.
- Education is always a part of what we do that nobody else has any impact on. How do we get schools to realize that they need to talk to other people before acting? We are struggling with this here. Obviously they have an impact on the justice system and yet no one has the ability to beyond suggesting to them that they must. Their union is so strong that you can’t get legislation to tell them they must.
- At least combine recommendations 13 & 14 as they are incorporated into the new recommendation 12.
- Suggestion to combine is one to think about.

- Building on that it struck me that all of the comments are pointing out one thing . We didn't really mention that education is an entity unto itself and we never really take it on. We never really say that we need participation of the education system and we need to encourage them to cooperate with us. Several of the comments point out that probation is doing this but they can't get into the system. Maybe an acknowledgement that the providers feel that they need a better handle and cooperation from the education community to provide the service to the kids. Probation is saying that we can't do this alone.
- Our board had a discussion on the problems with the education system. The next meeting we had eight people from the education system saying don't you dare make a recommendation.
- Since we are talking about collapsing the recommendations, maybe some of us should work on this as a subcommittee to find out the best way to collapse the recs into one.
- We could go through all of the comments today, consider incorporating a stronger statement in terms of the need for education to work with probation and consider what type of revisions might be most helpful.
- Committee will look at the recommendations; Ochoa, McCarthy and Tavaglione would be interested.
- Crogan: we just had a command college and we gave the recommendations to the rising stars and broke them up into three groups with six recs each and gave them three hours to look at them and find ways to make them work. They came back and presented to the group. They came up with some fabulous input. Your suggestion is to go through the rest of the comments and then have Norma give us the recommendations from the group. This will take it to a different level. These are the best and brightest and their ideas. Norma has comments and needs to put them into a reasonable format. The task force report was the subject of one day of training.
- These are the potential chiefs in waiting if you will. Their take on the education recommendations, just briefly, was that there were four of them which they felt was too many, they were concerned with the working relationship between education and probation, and also concerned with the fact that probation officers are not responsible for many of the items in the recommendations. They felt that probation officers need to be more responsible for educating parents as to their children's educational rights. They want to increase the advocacy through training parents, but felt that many of the items need to be done by education. Probation can't do it all.
- Norma will distribute the comments to Audrey who will distribute them to the group.

- Judge Brown will share the information with the rest of the education committee and report back at the June meeting.
- Suggestion was made to come back to the comments after the education committee has reviewed them.
- The line staff concern was that this was a lot to ask for from the line staff.
- I would hate to lose the edge of four recommendations, but compressing them down makes a lot of sense.
- The suggestion on the table is instead of going through the comments on recommendations 12 –15, we let the education subcommittee look at the comments, review the comments from the command college and meet by conference call to come up with some recommendation as to whether the recs should be consolidated. Tavaglione was added to the education subcommittee. Norma will join the conference call as well.
- Audrey will talk to Judge Ochoa to bring him up to speed on the discussion today.
- We will look for a report back from our June meeting.
- Someone made the comment that we spend a lot of time on education relative to other. Drug and alcohol are problems too and it's not addressed in this report. I think this is a potential oversight and perhaps we should address it in phase II.

Language discussion

- I'm wondering if maybe we should help the legislature by giving them stronger language.
- Having been a member of other task forces that had as their charge the construction of recommendations, we always cast them in "should" because of our charge, regardless of our commitment. It is probably keeping in line with what legislators are used to seeing from task forces. I don't think it will be viewed that we are tepid.
- We had a long discussion on this when drafting this report. We talked about "should". Why did we come to the conclusion to use "should"?
- The wording was between "shall," "should," and "must" and we determined that "shall" didn't have enough force, "should" was a "must" but weaker. We used "must" for funding because we felt it was required. We used "should" on the others because we don't have the authority over probation to make them do anything. "Should" is strong language that is still a recommendation.
- On the other side, another committee I sat on that went to the legislature, we did not use "should" at all. We were very clear with our recommendation language and they used our words exactly.
- Will the legislature take these recommendations word for word or should we expect them to change the words to say "will".

- The important point is the text behind the legislation. If it is strong, they would put “shall”. Structurally, often times recommendations are put in the role of “should” because we are an advisory board, and the supporting text would back up the recommendation.
- Might be worth it to go over the recommendations and see if we want to change the wording from “should” to “must.” But the real concern is if we have that text to back it up.
- You will have an analysis following the recommendations. The legislative consultant will look at what led us to that conclusion.
- At the September meeting we will have the recs complete and then we will go back and see if we want to change the wording. This will be an agenda item for September. We can change “should” to “must” at that time and we can also decide about combining the education recommendations.
- We should look at this on a case by case basis. Some recommendations might require “must” others a “should.”
- We should stay away from the use of “shall” as this word is perceived as telling the legislature what to do.
- The Judicial Council in its rule making process has substituted the word “must” with “shall” when there is a mandatory obligation. The basis of scholarship of late says that “shall” is less ambiguous than “must.”
- My reading of these recommendations we believe that all of these recommendations must be done but the language is in principle.
- By using the word must or shall in some of the recs we might inadvertently water down our other recommendations.

Placement

- Placements: are we going to look at placements?
- I think we have to. I brought to the last meeting some of the problems that directly affect placements that is going to affect funding throughout California to the tune of millions of dollars. Title IV-E. I mentioned that a number of states have flunked and California is one of them and they have a r plan for correction and if that plan is not met the funding is gone. I think we have to deal with it because it directly affects funding. To ignore it is to ignore millions of dollars.
- I think that discussing funding is a different issue than discussing placements and how they are used. It’s funding for placements but that is different than actually going in to placements, the quality of placements and where kids are placed.
- I understand what you are saying but some of the reasons we flunked is that it is something we are not doing.
- How would we handle it in phase 2
- There are two ways to handle it; one is that some of the requirements are hard to meet. One of the areas we flunked was the career planning. ISP’s

and who's responsibility is it to do that. Also there is a lot of paperwork so even if you have a lower caseload the paperwork requires more time. In LA County we are looking at having a whole team just to deal with paperwork and leaving the casework to certain individuals.

- Decisions as to placement have always gone to the judiciary. Part of the reason we stayed away from that is because we recognized that we were not going to influence them as to the placement of that kid. Even if the board appointed the chief, they would have the last say. Relative to placements, what could we recommend relative to their constitutional duty and obligations.
- I think in most places the judicial officer recommends a suitable placement and the probation officer determines what that suitable placement will be in terms of putting the kids in a placement. We have a lot of control of the cost of placement in terms of where kids go and what is the best placement for that kid.
- The judge gives the recommendation. He will commit to CYA or recommend suitable placement.
- The judge makes the decision to suitably place that youngster. You can decide, level 10 etc.,
- When the judge gives a decision to place in a suitable placement, what more direction do you want?
- Generally speaking if the judge is going to adopt a placement the probation officer has already scoped out the options, different counties have different protocols and different judges have different protocols.
- We are asked not to make specific placement recommendations due to funding. If we say that we want a kid to go to ABC camp and that camp is full, we are basically placing that kid on hold until a bed opens up. This ties the hands of probation. If we say that we would like probation to consider ABC camp than it is a message that we want them to place the kid there but without tying the hands of probation.
- This is probably a practice that is done across many jurisdictions and probably a best practice.
- I don't think this report is the place for this detailed information.
- Placement is important for funding. Funding is something that we will be putting out an instrument to find out how funding is received. Placements are tied to funding and to collaboration to reach out and use community resources. Every county is different in terms of their juvenile orders with respect to placement. Some leave it to probation officers and the probation officers have more discretion and others make direct commitments to certain ranches.
- Sounds like placements are an issue that need to be considered in phase two at least as much as they relate to collaboration and funding.

- Placements are complicated issues. The requirements that were mentioned earlier were speaking to state and federal mandates. Without completing these requirements, we lose funding. There is a layer above even the local court that tells probation what we need to do and drives our workload in terms of funding and workload and that is federal requirements.
- What realistically do we think is worth exploring other than funding or collaboration that are not covered in other sections of the report that we can do relative to placement? If you tell me that this goes to the Judicial Council in anything we direct or ask them to do relative to giving up local discretion of the judge in decisions of placement either giving the blanket to probation or giving specific orders. Is there anything that they are willing to give up or can constitutionally give up? What can we come up with in a phase 2 study that ultimately we are going to do modify the ideas or issues of relative placement other than the funding or workload issues that are in other parts of the report.
- There are mandates and laws that will address and relate to the placement issue. There is the funding questionnaire. There is the local practice. So whether or not there will be recommendations regarding placements, we need to at least include this aspect of probation, acknowledge it, and figure out where it fits in under the mandates with respect to funding as it relates to workload.
- I don't think we are talking about the judges giving up anything. We are talking about what happens after you order the placement.
- I agree that is a different question and frankly beside the funding and collaboration issues that are worth exploring even if they don't lead to a recommendation. Also, the laws and mandates review will bring information, as this is a heavily regulated area.
- The comment which reads: The task force should move to create a high quality low cost ...
- That's not our charge is it?
- The recommendations we are making concerning technology, education, and best practices, sort of fold into this comment. It may not be exactly our charge but we are charged with making recommendations that will continue the work of the task force.

Governance – Judge Jahr

- ❖ After attending the first meeting and having already read the report, I observed to Justice Manoukian that I was startled by the amount of progress that this group had made in such a short period of time in comparison with my experience in the state trial court funding process. In which the organizational structure of the courts was substantially changed and the funding mechanism

switched from the county to the state, which drives the cost of courts because the state enacts the statutes that call out the amount of work that we have to do on each case that comes through. The Trial Court Funding process was a lengthy process up until the time the law was enacted to the time when we began to implement it. Budgetary refinements are still going on but have come to a comfortable rest. The funding increases have been substantial since this has been in place. Not to say that the legislature has been unduly generous but that is to say that the pent up needs that had been piling up in the trial courts for years were finally addressed because we had an organized process to submit a budget request, and the budget appropriation would come to one entity and then through the Judicial Council the allocations would be made. It has been enormously successful in providing stable and reliable funding and a larger source of funding.

- ❖ The program began with a series of false starts going back to the 80s. Ultimately, the legislature enacted the trial court funding into law. It called for the distribution of block grants to the trial courts. That was a process that took a period of several years. It was awkward. It became known as the two-source or split funding. The counties continued to be responsible and the state was responsible. We had an economic downturn and the state pulled back on portions of its responsibility. It was an unwholesome environment. The legislature also created the trial court budget commission by statute and placed it under the authority of the Judicial Council and set about the process of trying to develop viable budgets in this split-funding environment. At the same time the council created the task force on Trial Court Funding, which had a similar charge to this task force. I was a member of each over the course of their existence. I observed a series of fiery discussions by stakeholders.
- ❖ Obviously with the downturn in the economy we can't expect the legislature to move quickly on the recommendations. Even if the economy were sound, if the experience of Trial Court Funding is any guide we can expect that a period of time will be required to build up a head of steam even if the stakeholders represented in this room were supportive. So, in the areas where there are pressure points that need to be addressed immediately it would be well for this group to make recommendations so that even though we make a governance model proposal a solution is presented to the council and the legislature we also propose means by which some of these pressure points may be relieved. I would urge us to consider doing so in the form of a stop gap statutory measure particularly in the area of the appointment authority subject. I would also urge you to consider if that kind of interim recommendation is made, that we propose that the legislation that is enacted have sunset language built in so we don't put a band aid on the problem and inadvertently produce a stasis for twenty years. What we are really wanting to see happen is a global solution to the many problems we have outlined.

- ❖ I attempted to make a list of the many subjects and problem areas that have been put forth so far. There are many that I feel are resolvable by work already completed. We certainly have the ethics issues, facility issues associated with liability and fiscal responsibility, we have employee protection issues that have to remain in the forefront to ensure that staff members are treated appropriately and fairly in the face of any change. The appointment dilemma is a pressure point that comes to mind. The global absence of general standards performance outcome qualifications training. We have spoken in so many sub areas about the absence of comprehensive guidelines for conducting of the individual offices. There is a need to preserve control but at the same time develop a stable and adequate funding. And by that I mean not just the concept of substituting something for the county funding but in the long run substituting something for what appears to have been a growing dependence on grants which themselves are unstable by nature. Particularly operations related grants as opposed to one-time grants.
- ❖ There is a struggling absence of transparency in regard to technology. Wouldn't it be wonderful if all of the information and data that have been developed at considerable expense and labor by one department could be readily accessed another departments.
- ❖ We also, aside from the facilities, have general liability issues resulting from the acts, errors, and omissions on the part of probation officers in their normal operations. We should be responsible for that and under what circumstances.
- ❖ We have the overarching theme that collaboration on all fronts would be a problem-solving ingredient in addressing all of these issues and how and in what manner can we build structures to encourage pathways of collaboration.
- ❖ What I mentioned before and firmly believe is that a solution has been suggested by the foundation built in the report. The puzzle pieces that you have put out on the table and have proposed resolutions that would pull together to suggest a model. It is in the report, one of two different models associated with the local and statewide judicial governance. I have made adjustments to it to try to address the concerns of the commentators and this body. I have proposed a model, which I will try to outline for you briefly, which seeks to create the following outcomes:
 - ❖ From transparency:
 - ❖ State Judicial/Local Judicial Governance Model
 - Outcomes:
 - **Preserve local control and accountability.** I think it would be very difficult to persuade the majority of stakeholders to buy into the top down proposal. We have two profound public concerns addressed by probation officers every day: public protection and the provision of rehabilitative services. Different synonyms appear for those but they are

two crucial services that probation provides. Those services are provided in the context of local cultures, which have different expectations and requirements. The concept of the preservation of local control the good that exists in our current system, is a hugely important concept.

- **Provide stable, reliable funding and fiscal accountability.** One thing we learned in Trial Court Funding is that you can't reasonably ask the legislature for something without offering the accountability for the legislature if they are going to become the fiscally on the hook. And I will tell you that a number of judges who say we are the third branch of government, we are an independent branch of government, we will tell you what we require and you will give it to us. This was both naïve and unreasonable as we are ultimately public servants. What we do is provide services and we must provide them in a way that's responsible to the public in their several capacities including their capacity as taxpayers. So a structure that is developed that provides that stable and adequate funding has to have fiscal accountability attached to it if it is to succeed.
- **Develop, implement uniform standards and practices regarding qualifications/training/case management/ performance outcomes.** The whole array of areas where many offices are performing magnificently and others are doing very poorly due to the absence of a clear vision or the resources to do so. This appears to be a crucial ingredient in any significant form of proposal. The best practices found in San Diego and other jurisdictions can be readily shared.
- **Provide strong administrative support.** One thing we learned in the trial court is that we relied so heavily on the county government to provide us with any number of different core support, whether it be personnel, payroll, facilities management, maintenance, liability insurance, representation in legal affairs. Those crucial support services became more evident to us as we began the process of separation because it became apparent that these links would be severed and we would need to have a new source of support in those areas so that we could go about business and not become dysfunctional.
- **Develop statewide interconnectedness.** Once again crucial. All these resources and data is out there to be able to put it together so that officers can do a better job is a crucial ingredient to a reform proposal.
- **Protect employees & representation.** Benefits, pay, the rights that they have developed in the individual jurisdictions over the years, the representation that they have selected to represent them in collective bargaining matters. We learned in the Trial Court Funding process that this has to be honored and preserved. Certainly we cannot ask employees to give up what they have won or to sacrifice that which has

been agreed to in the bargaining process and expect them to embrace a proposal that may be great for the public. Different courts have vastly different employee structures and I have no doubt that this is true for probation.

- **Avoid judicial conflicts regarding staff and facilities.**
- **Limit county fiscal and legal liability while resolving appointment issue & strengthening local collaboration.** If there is to be a shift in fiscal responsibility in operating these offices, there must be a shift in the fiscal and legal liability from that which presently is the case. Which in turn should produce a solution to the appointment process issue but must not be done at the expense of preserving and I would argue strengthening the local collaborative structures. Because even as probation officers move into a different structure they must remain a part of the local justice family. Just as courts are striving to do and the council is striving to have courts do by maintaining a decentralized court management model. We have all of these examples across the state where agencies and private entities are increasingly collaborating to create solutions in both the criminal and the family arena. Any model that we propose that retards these processes is obviously a model flaw.
- With those outcomes in mind I would suggest the following model. It's broken down into actions by the legislature in the form of statutory enactments and actions by the Judicial Council.
- Basic Features (Statutory):
 - **Create 58 Probations Service Centers (PSC) as distinct legal entities.** I'm borrowing from the Trial Court Funding model. These would replace the county probation departments. The county probation would cease to exist simultaneous with the creation of these PSC. By the creation of a specific legal entity you put one ingredient forward that assists in the maintenance of local control, which is a theme that runs through all of our discussion regardless of who ultimately pays the bill.
 - **Move all probation department employees to PSC with complete package of benefits/seniority/representation intact.** I'm suggesting a direct transfer, as a practical matter there would not be a physical move at all. They would become employees of PSC with a complete package of benefits intact. By making this arrangement and having PSC as separate entity the local court is not the employer of these personnel.
 - **State operations funding with County MOE (including grants) with Judicial Council as budget authority.** Obviously from a county perspective they would prefer not to have an MOE and to have a one time only transfer and that would be the end of it. I think as a practical matter in light of the fiscal and political climate a proposal that suggests a cap of some sort and I'm not suggesting a absolute analogy to what has occurred before in Trial Court Funding probably a political reality.

The consequence is that over time the state would assume responsibility for growth at least and perhaps others as other costs appear.

- **State assumption via Judicial Council of legal liability for operations.** For the first time, probation officers would be speaking with one voice to one funding authority, which is in balance. The state is a reliable source of funding. The funding recommendations would be focused through an internal process from each of the 58 courts through the council to the legislature in a manner that I will suggest in more detail in a moment. And then the statewide appropriations would come in the aggregate to the council and be distributed to each of the offices. It would have to be done in a fashion that doesn't create trauma for any of the offices. The state would assume legal liability for the operations of the PSC's by which I mean the acts errors or omissions of the CPO or the PO staff. Whether it be an inappropriate act of discipline that results in a personal injury suit or an automobile accident that is determined to have been a result of a staff members negligence. The counties would be indemnified and held harmless by the state if they were sued in error.
- **Chief probation officer appointed by / terminable by court at the local level.** This is a linchpin in maintaining local control but not giving up local accountability. The creation of distinct entities is crucial in eliminating the conflict problems but it creates another potential problem, the absence of accountability to any particular entity. As you will see the process actually proposes accountability by each PSC to the local court, the local justice community and to the Judicial Council via the AOC. One piece of this accountability is the proposal that the chief probation officer be chosen by the court in the jurisdiction in which the PSC resides. Question: isn't bullet one and bullet five in conflict? No actually not at all, I will address this later.
- **County ownership/responsibility for offices, detention & other facilities with state task force review.** Bad news for the county and that is the reality of the fiscal situation. There are hundreds of facilities operated by probation. Many of them are shared facilities, juvenile detention facilities, juvenile ranches or camp facilities. These are all county properties. There is a huge price tag on these. There is an ongoing effort to replace, refurbish, and restore and money is coming in from the federal government and to a degree from the state general fund to do those things right now though I am sure there are still some needs not being met. To attempt to make a transfer from a fiscal as well as from a complication point of view from the time of the overarching structure change would be in all likelihood a killer. This once again based upon the learning experience in connection with the trial court that have the same kinds of facilities problems. We don't have detention facilities, but the facilities are shared, county owned or freestanding

facilities county owned and maintained. They are terribly out of date and in many instances in a poor state of repair. And so the counties and courts in the collaborative effort to pass Trial Court Funding, agreed that we simply would have to study that in a different setting. The proposal here would be that a similar task force effort would be engaged in, with legislative approval and mandate, to develop the kinds of comprehensive studies that are now coming forward to the Judicial Council and the legislature in connection with trial courts. That means of course the liability associated with the structures themselves as distinguished from the acts errors and omissions of staff would remain county responsibility at least at the outset.

- **Create 58 county justice committees: board of supervisors, district attorney, public defender, PSC, sheriff, police, DSS, DMH, Education, court – to ensure collaboration, coordination.** Now, we already have justice committees with board of supervisors so it seems to me that if we are to preserve the collaborative features of our current system while removing the PSC from county government we have to have a counter balancing institution created or perhaps an existing institution modified and strengthened. I call it a county justice committee. I envision it chaired by a member of the board of supervisors, designated by the board as their justice person. The purpose of this would be to foster communication and encourage collaboration and the coordination of activities. There will be the continued problem of facilities and there has to be a forum where that can be regularly addressed with all of the stakeholders that have continuing responsibility as well as authority together. We have a number of counties where there is an integrated automation system that covers every agency that is a stake holder in criminal justice except the courts because the courts said were not playing. I know of other jurisdictions where the courts are stakeholders but other agencies will not cooperate. These kinds of institutions do not create instant solutions but over time they do create a culture and the culture creates reform.
- **Council charged with developing uniform rules/standards with decentralized management structure.** The statutory law would have to charge the Judicial Council with developing uniform rules/standards for standards and outcome and the whole nature of issues that are currently are handled on an individual level sometimes brilliantly and sometimes not at all. The statute would also have to specify that the model for management must be a decentralized model. So that while the Judicial Council and AOC are funneling the money and receiving the budget requests and providing a variety of support services, the PSC do not become micro managed sub parts of the AOC incapable of addressing local needs, appreciating and responding to the local culture. This again

draws from the Trial Court Funding model. This was an area in the Trial Court Funding world that was hugely contested. The presiding judges from 58 counties who were informally a little bit terrified of the concept of becoming somehow captive vassals. Of course they said we are independent elected officials and so forth, which is important and true. But it was necessary in the context of Trial Court Funding to develop a local autonomy structure. So as to ensure that while there was statewide accountability, because that is where the money came from, there was also local authority. If you don't have local authority you end up with a one size fits all world in which no innovation can occur or does occur. I think that we see from the innovation that occurs every day in the probation departments that if we are to lose that we would lose one of the most valuable ingredients of the structure. So that has to be a crucial piece of the statutory proposal.

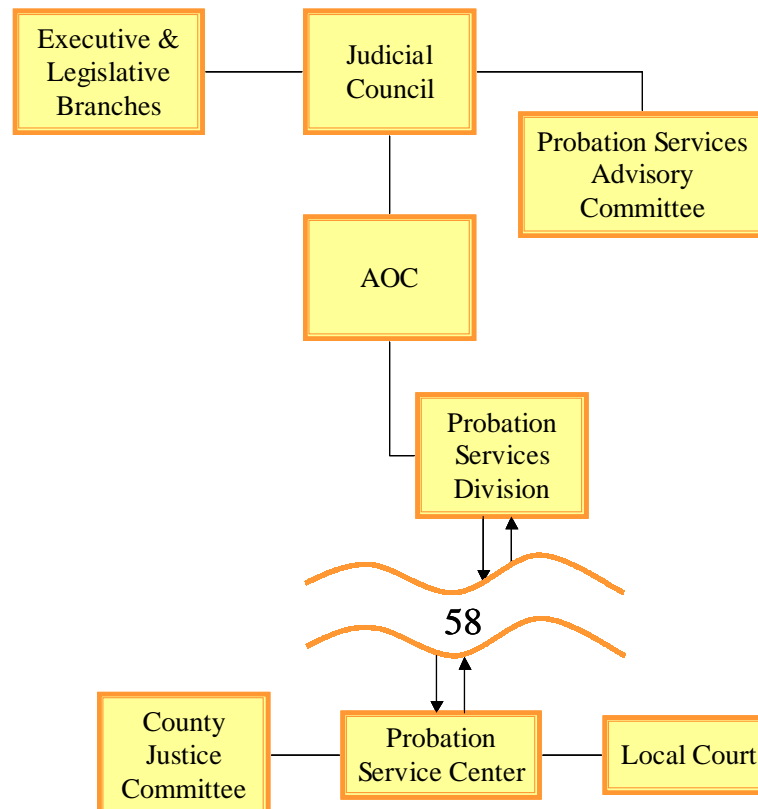
- ❖ In addition to a statute structure there has to be substantial action by the judicial council in response to the conferring authority and new responsibilities I would suggest that these components be included in the recipe under this model.

- Basic Features (Council Rules/Initiatives):

- Create AOC Probation Services Division (PSD) with access to legal, finance, education to support development of standards and to interface with PSC. To cover for the support services currently provided by the counties
- Create standing advisory committee to the council staffed by PSD to develop proposals for statewide standards. This isn't an idle act, the council relies very heavily on the recommendations of it's standing advisory committees in addressing proposals or in making proposals, in enacting rules taking positions on policy, the whole array of judicial business. The addition of a standing advisory committee and the development of a structure for its membership and its charge would be crucial to appropriate governance of the PSC.
- Develop budget request and allocation protocols – while ensuring current funding support. This would have to be done with great care because the levels of funding in probation departments are disparate depending on a variety of factors. A number of probation departments aggressively seek grant money others do not. These grants would have to be tracked and provided so that a PSC supplanting the former probation department didn't find itself suddenly woefully short of the resources of the resources it had become reliant upon.
- Create rule articulating preservation of decentralized (local) management at PSC level within rules/standards adopted for statewide application. The long-term structure for budgeting which anticipates growth and parity over time isn't ignored.

- Create rule regarding specifics for selection/discipline/removal by court of chief probation officer and for performance evaluation process. While the statute would call for authority at the court level to make the crucial local accountability link there is no question but that the specifics of the process should be addressed in greater detail within the body of concerned stakeholders.
- ❖ The net effect of that proposal creates a governmental structure something like this.

Governance Structure



- ❖ The Judicial Council is the policy making body for the judicial branch, there are of course the executive and legislative branches with whom we deal on a broad array of questions most notably the budget. The council has the AOC for support. The proposal would envision the creation of a separate distinct division within the AOC that focuses on providing service to and receiving input from the individual 58 PSC. Similarly, a probation services advisory committee reporting to the council advising and recommending to the council would have to be established. A line that is not earned there because it is not a structural link but it is a link in fact would be a direct line between the division and the committee. Because the division of the AOC would provide the enormous staff support required for the probation services advisory committee

in its myriad of responsibility one can imagine that the preparation of guidelines and standards that has statewide significance will be a huge task once a structure of governance model is put in place. So those resources would have to be brought to bear. The nexus is through the AOC probation services division. At the local level there are 58 autonomous PSC in each county. There is a link with the court through the appointing process but only the appointing process. The court doesn't have responsibility as an employer or for budgeting and thus avoids the conflicts that have been the source of concern for some. The county justice committee also creates the overarching link between all of the affected stakeholders in each local county's criminal justice process. That has to be a strong body and a thoughtful creation of its role and responsibility has to be considered in order for that element of the proposed model to avoid a withering away of collaboration and community.

- ❖ That essentially is the suggestion I am making. I believe it addresses the outcomes that I have proposed needed to be addressed. Local control is preserved, stable and reliable funding is obtained, a mechanism for the development of statewide standards and guidelines is put in place so that those with the expertise in the area can develop it. Administrative support is presented through an existing entity that has had a remarkably similar task placed upon it and has reacted to it by creating structures that provide those services to courts. Interconnectiveness is achieved because with statewide standards come statewide protocols that insure linkage, both for the sake of replicating best practices and ensuring that counties learn from each other. Employee representation and employee status is preserved. The conflicts issue with respect to staff liability is resolved, with respect to facilities although on an interim basis is not yet determined. The local collaboration is preserved by the county committee, if structured correctly,. I believe also to a very significant degree the five fundamental principles of this group are respected.
- ❖ P 63 has two models that have been tweaked to get here.

Questions:

- ❖ In the Trial Court Funding, the whole concept as far as the benefits for the judges. They have a standard salary. This was before Trial Court Funding it was one of the things that was paid by the state. The retirement structure and health care was unchanged. In a couple of counties there were additional benefits that were previously agreed to between the court and board of supervisors over time. It was a sticky point and one of the accommodations that was ultimately made was an adjustment so that as with the trial court employees the bench officers benefit package previously negotiated was not jeopardized.
- ❖ They weren't changed, not jeopardized. That is an important difference. The fact is that nothing in the act changed the application of any existing local judicial benefits.

- ❖ We know that well
- ❖ They were not part of any MOE responsibility from the counties nor were they anything that would be reimbursed by the state for the continuance of local judicial benefits. It remains an open question as it was before the act. It remains an open questions, although we don't know that for sure because some declarations readjust their MOE claim don't think it's a reality. Whether or not that is a vested right that can be renegotiated with the local bench is an open question that I really don't want to get in.
- ❖ When I said not jeopardize, I meant that they were not eliminated nor were they put on a different legal footing after Trial Court Funding. They still exist.
- ❖ They've been changed.
- ❖ They have only been enhanced.
- ❖ Whatever benefits that existed, you now in addition to that have statewide benefits.
- ❖ No the statewide benefits were already in place and the statewide salary structure was already in place. It was a curiosity of legislation history and I don't know how far back it goes but the salaries of judges except for justice court judges were mostly paid by the state. You literally got a state paycheck and then a small portion was paid by the county.
- ❖ There are about six counties that get a single paycheck from the state now. It is a bookkeeping thing. But in simple straightforward answer to your question, the judges compensation remained the same as before Trial Court Funding was based.
- ❖ Salary increases can be negotiated through the legislature and a statutory change enacted to change them. There is also another component of judges salaries that are tied to state employee pay increases that are negotiated by state employees. Once again, that structure was in place before Trial Court Funding.
- ❖ Is there an MOA for example? No
- ❖ What about workload standards and caseload standards? For courts and judges?
- ❖ That whole constellation of standards guidelines workloads is all a work in progress. There is the JBSIS program that has been set up to try to develop a common language for communicating what is actually going on so that we can all understand at the state and local level what is going on comparatively speaking.
- ❖ There is a new Judicial Council approved judgeship needs methodology that was developed after years of work that assesses the caseload and ascribes different weights to different kinds of cases based on endless study that was done. It was approved last October for purposes of internal evaluation of work as well as for purposes of seeking new judgeships for the state. That is an example of one of the many efforts that is being overseen by the council and staffed by the AOC for purposes of trying to better understand what we are where the resources are where the workload is what kind of workload. This is

not something that happened quickly. Before Trial Court Funding we had as a statewide institution almost no institutional knowledge of the totality.

- ❖ So the workload/caseload is the same from county to county. In LA County ...
- ❖ You can't go there because LA County has more death penalty cases in one year than the whole northern tier of the state in five years.
- ❖ In workload standards test is used to determine how many judges it would reasonably take to process different cases to determine how new judicial positions are allocated to the counties. So we can say if felony filings go up it equates to the need for x number of new judicial positions.
- ❖ But the salary is the same. For statewide constitutional officers the salary is the same.
- ❖ To be clear, this methodology is published on the Judicial Council website. The council has arrived at the judicial needs assessments for all 58 court systems and they vary because it is perceived that there are different levels of workload in different jurisdictions.
- ❖ I'm comparing this to probation, in the model that you propose; there are varying differences as far as salaries and benefits for different counties. For example, LA County is the highest salary but other counties that make less might have safety retirement. Are you proposing too that just like the judges in Trial Court Funding that all of the salaries would be the same across the state?
- ❖ No. I think the better analogy would not be to the judge's salaries and benefits, which were predetermined on an equal basis by statute for other reasons eons ago. The better analogy would be court staff. They had the same kinds of variations. The ultimate goal is to develop that knowledge base that we have never had so that we can make reasonable assessments of where needs are and at the same time work toward achieving equitable compensation where there is obvious inequity. One thing that was emphasized over and over again during the Trial Court Funding process is that we cannot dumb down any jurisdiction that has achieved what probably is an optimum or close to optimum resolution of employee issues. In other words, why should a jurisdiction whose representatives have zealously and successfully advocated for certain benefits suffer a reduction in those benefits because it turns out that another jurisdiction didn't do that? The idea of a lowest common denominator approach to employee benefits was appreciated as a risk and rejected all together. It was also understood that if we took the highest and best, which I don't think you can do because as you pointed out there are different benefits that are superior in one place to another in different categories. Assuming for the sake of arguments, you could determine which would be the best; the legislature would reject it due to the price tag. So the concept was to preserve what is there to ensure no one is hurt, and strive to gain a better institutional knowledge of caseload, job classifications, best practices, in the hope that over time in the long term instead of having this static inequity the employees will also benefit,

particularly those that have found themselves employed in work environments that are sub standard

- ❖ The only problem with that.
- ❖ To date, there has been no proposal put forth to standardize court employee salaries and benefits. It may be in the offing but I don't think the courts are going there yet.
- ❖ What they have agreed to in the legislation the transferred responsibility for court employees to the courts was a local model based on local negotiation for their contract. Each year they go before the department of finance to justify their negotiated salary increases. Successes and failures are based on the data they have available to them and the conditions of the state
- ❖ That is why I am asking these questions, because I am looking at these scenarios. My worst nightmare would be to sit down with judges and negotiate a contract particularly if we have this philosophical difference already that is saying it is okay to have differences for employees when the judges have standardized salaries. That is a philosophical problem.
- ❖ However, that is not the proposal that I made. The negotiations that would be conducted would be with the local service centers and undoubtedly the AOC which is the funnel for the money. The courts would not be involved at all.
- ❖ Who would?
- ❖ The local service centers are legal entities separate in and of themselves.
- ❖ Who is in the local service centers?
- ❖ The people in the probation departments. In other words, I don't mean to say that it would be a change in name only as there would be big structural changes. The local service centers would look exactly the same as the probation department.
- ❖ Employee structure would be the same.
- ❖ The chief probation officer would make the decisions on raises, benefits?
- ❖ What would basically happen is right now the negotiations are with the local county government. The board of supervisors would go out of the equation and they would cease to have financial responsible for the operations their only continuing responsibility would be for maintaining the facilities in which those centers operate. In it's place, since the funding stream is who you have to negotiate with, the funding stream would not be the state through the Judicial Council meaning through the AOC.
- ❖ The human resources division is one of the divisions of the AOC. I won't pretend to tell you that I have proposed a specific structure for the negotiations, but the funding stream is through the AOC so obviously it is with their input that the budgets are formulated.
- ❖ Who has the ultimate approval or veto authority in the contract negotiations?
- ❖ In my scenario I have not pinpointed a person, but it is down to the management of the PSC and the AOC which in fact speaks for the council. Those are the only two agencies that hold the purse strings. The board and

judges are out of the picture. Essentially the employee issues would have to be addressed in some combination or by some delegation with the AOC and the chief probation officer.

- ❖ Are you proposing that probation is now part of the judicial branch.
- ❖ Yes,
- ❖ We are carrying out an executive branch function but we are part of the judicial branch.
- ❖ Yes.
- ❖ There are some real problems there. For example, in LA county we represent the superior court clerks, research staff, etc. it's a nightmare to go through the negotiating process.
- ❖ There is a key difference between the negotiating process as it relates to the courts and the PSC. With the courts you are dealing with the courts, the judges, the CEO. This model would not have you involved with them. Although essentially you are involved with the same pot of money because they too are now funded through that process that I suggested to you.
- ❖ I don't see how you can disconnect it. For all practical purposes, probation is negotiating with the judicial branch and not the executive branch.
- ❖ At the state level not the local level
- ❖ Whatever level
- ❖ The level is important for several reasons. I understand that you have a personal concern and it is important to you whether it is the state or the local judiciary for your own reasons. There is another reason that my suggestion would keep the local court away from it altogether. That has to do with the persistent concern about conflicts of interest that would be perceived to happen if all of a sudden the PSC's cease to be county departments that were also arms of the court because they are and always have been very closely connected in function and arms of the court and became part of the judicial branch and answerable directly to the presiding judge in terms of salary etc. If you had that, and that same employee then came in to testify in court, that judge could say with some authority 'I'm sorry I can't hear this persons testimony, I have to recuse'. And that means that every other judge in the court also has to recuse and no judge in the court could hear a probation officer's testimony. You couldn't do that. What you have to do is create a fiscal firewall between the PSC and the courts, so that while the state judicial branch husbands the resources, makes the negotiations with the legislature and the governor for funding and distributes and allocates the dollars, it is at that state level only that you have a connection. Once it goes locally, there is money that goes to the courts as a separate entity and money that goes to the PSC as a separate entity. Labor negotiations would similarly be completely separated. There would be nothing that a superior court judge would have the authority or ability to do in connection with the conditions of work, pay benefits, etc. of

PSC staffers because the statute as I have suggested it would prevent them from having any responsibility or authority over it.

- ❖ Who would? What are there titles? There are a lot of details that still need to be worked out.
- ❖ I don't want to leave you with the impression that we can't identify the constellation of participants. You have the AOC and the management of the PSC. How it works out between the two of them, in terms of who will be provided management authority and responsibility for negotiating, I have not made a proposal and frankly, I don't think I have the expertise to make a proposal but it is those folks we are talking about.
- ❖ The AOC functions like a CAO. If they are doing the negotiating, they will have the final say over it.
- ❖ In certain functions the AOC will have administrative support responsibilities only in others the AOC will have a direct role. One of the reasons for trying to put together a model that has the appointing authority of the local judge is to ensure autonomy of the PSC. One of the reasons for the proposed statutory enactment that specifies that the management structured that is to be developed is a local or decentralized management structure is to prevent the Judicial Council or the AOC from becoming the day to day micromanaging boss.
- ❖ In terms of negotiations, I'm not trying to propose that I have a specific solution but by process of elimination would be the PSC and the AOC.
- ❖ How that works out is obviously the result of the need input.
- ❖ There is a lot to look at because you have in some instances the only thing that has given us any resemblance of protection in LA county is that the caseload language or caseload/workload language is in our contract. So we have a specified number of cases that are assigned to each officer. Much more than there used to be. But say if whatever statewide model comes into being if that is in conflict with your local contract how do you resolve those issues. I don't want to delay because this is going to take a lot of time.
- ❖ The other thing that I see to be a problem is the addition of juvenile halls and camps. That is a big liability issues. In LA County we have a lot of facilities with a lot of deferred maintenance.
- ❖ As do we in Shasta. I am not pretending to provide an answer to all questions or a solution to all problems. It may be simply because I have not thought them out.
- ❖ One of the problems that we discovered during Trial Court Funding process was that we had an inventory of facilities that was frankly shameful. They hadn't been cared for and it wasn't necessarily because the board of supervisors did not fund it. It was because of a whole matrix of phenomenon not the least of which was Proposition 13. We knew that we couldn't get to Trial Court Funding if we let the facilities issues block it because it would have killed the whole deal.

- ❖ If we are going to talk about negotiating with the courts for salary and benefits, etc. we would not approach it as it is currently approached. We would start looking at what the judges have and we would want equity and some sort of uniformity. We are not looking at saying we will negotiate with you differently depending on your position with the court.
- ❖ In summary, why would probation want to negotiate with the state instead of negotiating with the local board of supervisors where a lot of probation departments feel they could get better benefits and have a greater ability to secure what they want for their officers?
- ❖ These benefits are obtained politically and I don't know how you obtain them when you are dealing with the judiciary.
- ❖ That question is germane to the entire discussion about the model of probation for the future. Because if it stays a local county model than that continues to be the nexus of negotiation. If you move to any judicial model, then the nexus moves from the county to the courts. In any analysis of a judicial model, there is a change in the employment relationship. If what we are hearing is that that is a major concern on the part of probation staff than that obviously has to be carefully thought out. If we move to a judicial or state model. Any change in employment status because they may be comfortable with the current county model which has them working with the board of supervisors. If that were to become the sole basis for a decision than we would really be talking about a model that confests everything with the county board of supervisors. I think its that whole general question of what is the employment relationship that underlies this concern.
- ❖ For whatever it is worth, it took a lot of hard swallowing for all of us to encounter this series of changes in Trial Court Funding. Humans resist change even when it is for the better. I'm not suggesting that this doesn't deserve a lot of careful consideration or that I don't have blind spots, what I'm trying to do is present the concepts that were developed over a long period of time during the Trial Court Funding process.
- ❖ Folks on the staff and in the judges and in the executive office were very concerned about cutting the links with the counties even though there was a desperate political and fiscal problem. I recognize that any change in model is going to produce a fair amount of concern and among other things you need some time to assess it.
- ❖ Before Trial Court Funding there were some basic concepts across the state regarding benefits, salary, workload, etc. there are some existing rules in counties now as far as probation is concerned. Even in some counties where the presiding judge is the appointing authority when it comes to contract negotiation, goes through the county.
- ❖ To play devil's advocate, the court employees that now negotiate with the courts in Shasta do a lot better than they did under the county. This is a point of contention between the county employees and the court employees. So now

when we are negotiating with probation they want the same deal as the courts. There are two sides with that.

- ❖ LA county, there are some court employees who didn't get a raise for 7 years.
- ❖ The employee system was largely based on the wishes of the employees as voiced through the unions. So whether you like the system or not SB2140 which set up the structure was significantly influenced and supported by the employee organizations.
- ❖ It is clear that there are some situations where people are unhappy and others where they are very happy. I am sure there will be some evolution in that process but the current state of affairs was the result of a lot of extra work beyond just moving to state court funding which involved a lot of the stakeholders and maybe that is how this kind of thing happens, I don't know. It was not from one side or the other it was a very significant compromise effort.
- ❖ I would like people to keep in mind that there was a lot of work done by the court employee task force that answered a lot of legal questions not the least of which is why you combine local control appointment termination discipline in one entity and how that relates to compensation adjustments or negotiation. Because they are interrelated. When you go to a court if you have a grievance, a violation of a contract, they will ask you who the employer is and they will design who the employer is as a result of the case law if it is not spelled out. I think there is a real problem in the diffusion between an employer and the entity that has the ability to hire and fire. It may be that you realize that someone at the state level is an employer that has delegated this authority to the local court but it is definitely whoever has the ultimate. If that is the idea if that is the concept, than that is the employer. Someone who is delegating that authority to someone else. But it tracks up from my understanding of the law and that is a key issue. Who the employer is and who is held responsible for compiling with the contract negotiated, complying with the health and safety code, etc. All of those relate specifically to that question. I know what you are trying to do and trying to avoid and it is creative. I just think we should really look at the employee task force for all of the legal questions that ultimately resulted in the formation and the consensus agreement of all people participating in that as to the best model to use for employees of the court system. I agree that the court employees union did have a great influence, didn't walk away with everything they wanted but they did reach an agreement. It is a model that went through a lot of legal analysis. Just another thing, in transfer you have to also consider who the employer is relative to benefits that can continue. Certain benefit packages that you have that you can get away from state and federal tax laws are all integrated as relative to that employee. It's a very difficult problem and I'm not sure that something like the model for the court employees we might ultimately end up with just for legal reasons. From the county perspective, it is an interesting concept and you have several questions that will be resolved by us relative to our continuing

responsibility. We understand that fiscal realities mean that we don't just get to turn over the keys to you guys. An advantage in Trial Court Funding was that we had a starting point. My concern is that we haven't gotten there yet with our group. There are certain questions I have for the court.

- ❖ I think you pointed out generally that facilities is an issue that is contentious because it is really seen as an executive branch responsibilities and there are ethical questions when you have to challenge decisions of the executive branch or administrator in calling out their responsibility pursuant to that duty. Are there other types of services or functions that probation is now performing outside facilities that fit that for example your obligation pursuant to a program that the board has approved, gotten grant money for and you wanted that are outside the judicial branch function or that you want to become involved in. Do you want to administer pursuant to the structure you are setting up a process by which you are involved in executive type functions and are there the same types of ethical questions when those exec functions are not carried out on an equal basis and you get a suit saying that someone in your structure has not complied with the law. I don't know if those are or not but it is something we need to examine. The mandate review will give us a better idea. Those are the issues that we have to have answers for before we got to the legislature talking about transfer. Why do you want to do this, why should we do this, tell me why this is an executive function, why should the state be involved in a local decision making process. All of those are important. We are on the right track to examine this but we have a lot of work to do.
- ❖ I agree and I'm hoping that the other models will be developed too.
- ❖ It was useful to see the model presented in this way. Trish made a point that is true and statewide I'm sure, they are in the same office doing the same exact structure substance while other people in the office are doing exactly the same thing but negotiate differently. Some think its much better others do not. This difference is going to put a real strain if we go with anything like this model with negotiations with the board and the same with the AOC if this model is accepted. Some of this liability issue was mentioned earlier, but from what I understand is that the facilities liability issues are with the county under this model. Will overcrowding be a county liability?
- ❖ Yes. There is a hybridization of a lot of these issues as John pointed out yesterday. Let's say there is an overcrowding problem that is related to poor management. The state is liable. Let's say there is an overcrowding problem strictly and only referable to the fact that their facilities have not been updated. That is a county liability. There are going to be gray area disputes. The structure that is in place has been the same for decades to unwind or change things in any way will obviously take time.
- ❖ I agree that there will be tension. It takes time for people to adapt to the new identity. The proximity of state and county workers has always been close in a lot of jurisdictions, but they view themselves as different so there expectations

are different. County and court employees were both county employees and they compare themselves with each other and wouldn't dream of comparing themselves to the state workers

- ❖ While Judge Jahr has offered a good place to start, even from my perspective we've matured somewhat internally in the branch and there are some areas where we would have to talk more about this because of the experiences and what we have learned during the Trial Court Funding process. Fundamentally, the idea of local control is not what it started out to be nor is it, I think, where it will ultimately end up. There is an inherent conflict between statewide and regional approaches and local control. Particularly when it is the state that funds the program. Our branch continues to evolve every year and we see the need to do things differently than simply this pure local control model. I'm not sure that it would be sustainable in the probation setting as well. It's a great place to start. He's flushed out some concepts that we can really look at. Overall we have changed over what I think was that principle of local control.
- ❖ An example of an unanticipated conflict: We have twenty some courts with two judges. They used to be one superior court judge and one justice court judge who one tenth of the time was a justice court judge. Through the process of unification those judges who had in the interim become full time municipal court judges, became the second superior court judge in their county. We have counties where there is not enough caseload for one superior court judge. That is a consequence of other things that were being done in the nature of reform. Those judges are in the position of hiring a CEO and may only have a staff of 5 or 10. in many cases, they have spent a disproportionate amount of money to hire someone to do the things that the county used to do for them because they needed someone who was skilled. All of a sudden you have a budgeting entity saying how do you justify spending that kind of money on a person who has a 5 or 10 person shop? The answer ultimately is probably that we are going to need to think in terms of administrative support in the courts of some sort of regional support. Does that take away from the judges the ability to determine when they hear cases, how much time they devote to hearing certain categories of cases, when they conduct their jury trial, and how the select juries? No. It does implicate the delivery of support services to them. This is an extreme example, but nonetheless an important illustration of some of the dynamics of change. Unseen, unanticipated. There is also the further issue of what do we do with these two judge courts? Do we sunset one of the judgeships. I don't know of any major reform that is done for the public good that doesn't have sensitive issues.
- ❖ In terms of timing, we have our June meeting which is action packed. We have our September meeting where would like to come to some resolution of short term recs on as many issues as possible including the appointment/retention/discipline/termination issues and long term model, we would like to be fairly well along in September after we have had a review of

laws and mandates and have had a chance to send out the fiscal questionnaire. Would it be helpful to have someone speak about the court employee task force and the issues and process so we can learn from that process?

- ❖ If this body is interested in investigating the model I have presented, we should hear from the employee task force.
- ❖ I think we have to look at it with all of the models in mind. We haven't selected a model yet so it would be premature to look at it in terms of one model.
- ❖ The employee task force looked at several different models. Some of their thinking and legal reasoning as to how they came to the decision they did might be helpful.
- ❖ There was a different dynamic there because a decision had already been made.
- ❖ It might be helpful but we shouldn't overlook the dynamics.
- ❖ I think that their thinking process would be helpful. Not selling their decision to us.
- ❖ The presentation was well done, but we should look at all of the models not just focus on one. If the employee task force can speak to all of them, it is not worth discussing.
- ❖ Who to address that? Justice Ardaiz, Ron Overholdt, Debbie Brown.
- ❖ Audrey will try to identify a person to give us a brief overview of the employee task force. They can hopefully address the process they went through as well as the aftermath.
- ❖ Have the other models been presented to the task force in the same manner as this one.
- ❖ Yes but we need to go back to it. We have examined many models and now need to return to models that would be most helpful to further our work. This was probably the most superb presentation that we have had that really ties in a lot of our concerns.
- ❖ Are they all contained in the draft? Are we at the point to narrow down the models to four or five that we can deal with?
- ❖ We can add Judge Jahr's presentation to the others and really focus on those.
- ❖ If we have the employee task force, would they be addressing all models or just Judge Jahr's.
- ❖ As was pointed out, they considered different approaches to employment relations with one caveat, it had been determined that the county would not be the employer. I believe they did look at the situation where the county was the employer. There is a lot of material that reveals the sequence of their evaluation and the work product of their evaluation.
- ❖ Is there not an ability for individual courts to contract with counties to continue the personnel process? That was a different piece of Trial Court Funding. It authorized the courts to engage in what might be called competitive bidding for all services except for bailiff services that was another little political piece. Aside from the bailiff services issues the court could contract with the county

an outside vendor or create its own office with the budget limitations. That was a different part of the picture than the employee relations picture.

- ❖ The Employee Task force has a website on <http://www2.courtinfo.ca.gov>. all of their materials are available there.
- ❖ I very much appreciate Judge Jahr's analysis because what he did is something that I hope we do for all of our models. Essentially if any model we choose if we have stated something as our principles, we have to use that as our measure. We can accept or reject on the basis of those principles.
- ❖ The other thing I really urge us to do is start looking at interim steps to get to where we ultimately want to go. I encourage us all to look back at the materials and think about what can we do to advance collaboration in various aspects of the service we provide as an interim step to get where we want to go. I recommend that we do that.
- ❖ The general discussion has been that there must be adequate funding for probation. We have looked to the state for funding as would be the obvious choice to make. If we look to the state for funding, how do you construct your model in reliance on the principles that you have.
- ❖ Collaboration examples will be presented at the next meeting. Present short term recommendations with an eye to the future.
- ❖ We have the foundation in terms of the principles.
- ❖ We have general consensus on most of the issues. It just how do we develop a model for California that recognizes the individual needs of every group. Preserves the status quo for all employees, achieves stable and adequate funding and diminishes the tension and conflict between the bench and the board of supervisors in terms of liability and funding issues, creates a better model for appointment/retention/discipline/termination of the chief probation officer. And I was reminded today that a large percentage of the line staff is for electing the chief probation officer.

Meeting adjourned.